M I N U T E S
REGULAR COUNCIL MEETING
CITY OF HOLLY HILL, FLORIDA
NOVEMBER 22, 1994

1. CALL TO ORDER

Mayor Virginia Wine called the meeting to order in Council Chambers at City Hall, 1065 Ridgewood Avenue.

Answering roll call were Mayor Wine, Councilman Arthur Byrnes, Councilman J. D. Mellette, and Councilman Shirley Heyman. Councilman Jim Elliott was absent.

Also attending were City Manager Ralph Hester, City Attorney Edward Simpson, Chief of Police Pat Finn and Deputy City Clerk Sue W. Blackwell.

2. INVOCATION

The Invocation was given by Councilman J. D. Mellette.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

SPECIAL REPORT

Due to the severe flooding experienced in the City from Tropical Storm Gordon, the Acting Public Services Director Alan Gilbert and City Engineer Deward Martin gave a special report (copy attached) at the request of the City Manager. Mr. Gilbert showed Council the areas of the City which had been flooded and explained to the citizens that there was no way the storm drains could have carried off the almost 13 inches of rain received from the storm.

Several citizens spoke to Council regarding the flooding in their area. Among those addressing Council were Don Wiggins, Clifford Jackson, Tina Hall, Morton Parks, Frances Langford, Jeanine Langford, Sharon Dewees, Leslie Gibson and Pat Clem.

Citizens complained about the retention ponds constructed by the FDOT when they widened Nova Road and said they were a prime cause of the flooding in that area because they did overflowed into the neighborhoods near them. Another suggestion was that a dam should be constructed at the east end of the Eleventh Street canal to keep the river from backing up into the canal. The idea is to stop the water from the river and then pump the water from the canal over the dam into the river. One citizens suggested cleaning out the canals and hauling the debris away instead of just stacking it up on the canal bank.

Mayor Wine told the audience she was sure there would be cooperation between all the governmental agencies now that this flood has occurred.

The citizens attending the meeting were informed that although the FDOT ponds were part of the problem, the canal also collects water from Daytona Beach, Ormond Beach, and unincorporated areas of the County and that these entities should also be a part of the solution to this problem.

Much discussion followed and then it was the consensus of Council to send a letter to the County Council (requesting help) which had been prepared for Mayor Wine's signature.

4. AUDIENCE PARTICIPATION

None.

5. CONSENT AGENDA

A. Approval of Minutes - Regular Meeting - November 8, 1994
Special Meeting - November 1, 1994

Councilman Mellette moved to APPROVE the consent agenda being seconded by Councilman Heyman. The motion CARRIED 4-0 on roll call.

6. ORDINANCE NO. 2383 - FIRE PENSION BENEFITS

City Attorney Simpson read:

ORDINANCE NO. 2383
AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING CHAPTER 11, ARTICLE 2, DIVISION 2 OF THE CODE OF ORDINANCES OF THE CITY OF HOLLY HILL, FLORIDA, PROVIDING FOR AN INCREASE IN BENEFITS; PROVIDING FOR A CHANGE IN THE NORMAL RETIREMENT AGE; PROVIDING FOR A MONTHLY SUPPLEMENTAL RETIREMENT BENEFIT; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF LAWS OR PARTS OF LAWS IN CONFLICT HEREWITH; PROVIDING THE TERMS AND CONDITIONS THEREWITH; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Wine asked Mr. Simpson about the U.S.C. retirement age since it was questioned at the last reading of the ordinance. Mr. Simpson said it is age 65.

Councilman Mellette moved to ADOPT the ordinance on second reading being seconded by Councilman Heyman. The motion CARRIED 4-0 on the following roll call:

Mellette, yes; Heyman, yes; Byrnes, yes; Wine, yes.

7. ORDINANCE NO. 2388 - VACATING KANSAS AVENUE

City Attorney Simpson read:

ORDINANCE NO. 2388

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA VACATING A PORTION OF A SIXTY (60) FOOT RIGHT-OF-WAY KNOWN AS KANSAS AVENUE LYING BETWEEN ANNISTON AVENUE AND SELMA AVENUE; RESERVING A FIVE (5) FOOT PORTION OF SAID VACATED RIGHT-OF-WAY AS AN EASEMENT FOR UTILITY PURPOSES, INCLUDING STORMWATER DRAINAGE; REQUIRING PROPERTY OWNER'S ADJACENT TO THE VACATED RIGHT-OF-WAY TO ENTER INTO AN AGREEMENT WITH THE CITY TO GRANT TO THE CITY A FIVE (5) FOOT EASEMENT FOR UTILITY PURPOSES, INCLUDING STORMWATER DRAINAGE, FOR THE SAME AREA BEING RETAINED BY THE CITY FOR THE SAME PURPOSE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Councilman Byrnes asked staff if this ordinance was a good idea in view of the fact we might need this land for drainage. Mr. Martin explained we had a 30 foot right of way reserved.

Councilman Mellette moved to ADOPT the ordinance being seconded by Councilman Byrnes. The motion CARRIED 4-0 on the following roll call:

Mellette, yes; Byrnes, yes; Heyman, yes; Wine, yes.

8. ORDINANCE NO. 2389 - NOISE LEVELS

City Attorney Simpson read:

ORDINANCE NO. 2389

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING CHAPTER 17 (NOISE), SECTION 17-4(a) (MAXIMUM PERMISSIBLE SOUND LEVELS BY USE OCCUPANCY) TO PROVIDE FOR GRANDFATHERED NONCONFORMING USES AND REGULATION OF NOISE PROJECTED INTO DIFFERENT USE OCCUPANCY CATEGORIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Councilman Heyman moved to ADOPT the ordinance being seconded by Councilman Byrnes. The motion CARRIED 4-0 on the following roll call:

Heyman, yes; Byrnes, yes; Mellette, yes; Wine, yes.

9. ORDINANCE NO. 2390 - RESTRUCTURES PUBLIC SERVICES

City Attorney Simpson read:

ORDINANCE NO. 2390
AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING CHAPTER 2 (ADMINISTRATION), ARTICLE IV (GOVERNMENTAL ORGANIZATION AND STRUCTURE GENERALLY), SECTION 2-257 (STREET, SANITATION AND MAINTENANCE DIVISIONS; PUBLIC SERVICES DIRECTOR) TO DELETE THE POSITION OF PUBLIC SERVICES DIRECTOR AND CREATE THE POSITION OF PUBLIC WORKS MANAGER; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilman Mellette moved to adopt the ordinance on final reading being seconded by Councilman Heyman. The motion CARRIED 4-0 on the following roll call:

Mellette, yes; Heyman, yes; Byrnes, yes; Wine, yes.

10. REQUEST FOR APPROVAL OF FINAL DEVELOPMENT ORDER FOR QUALITY CARS

City Planner Bob Keeth said Council had two site plans in the agenda packet, one approved by the Board of Planning and Appeals and approved subject to compliance with four conditions included in his memorandum (copy attached). The second plan is the one revised to address those conditions which have been met. Mr. Keeth recommended approval of the final development order.

Councilman Mellette moved to APPROVE the order as requested being seconded by Councilman Byrnes. The motion CARRIED 4-0 on roll call.

11. REQUEST FOR APPROVAL OF DEVELOPMENT ORDER FOR FARRELL FOOD SYSTEMS, (HARDEE'S REST., 1515 NOVA ROAD)

City Planner Bob Keeth said this has been reviewed by the Board of Planning and Appeals and there is one outstanding condition. Approval should be made contingent upon a receipt of a letter of consent from the shopping center owner because this site plan amends the approved site plan for the shopping center by allowing additional access to the out parcel. This was what was done for the Rally's Hamburger which was proposed for this site.

Mr. Keeth said he talked to the Farrell's attorney today and he has not received word from the shopping center owner but he said this is a reasonable condition and they are willing to abide by that.

Councilman Mellette moved to grant approval contingent upon receipt of the letter from the shopping center owner and also upon approval of the stormwater by the City Engineer as recommended by Mr. Keeth. Councilman Byrnes seconded the motion which CARRIED 4-0 on roll call.

12. REQUEST FOR APPROVAL OF DEVELOPMENT ORDER TO CONSTRUCT A 3,200 SQ. FT. METAL WAREHOUSE - (FOUT)

City Planner Bob Keeth said the Board of Planning and Appeals recommends approval subject to three conditions which the applicant has satisfied.

A lengthy discussion ensued regarding parking regulations and what happens if the use of the property changes. Council decided to have the Board /City Attorney to review the parking regulation ordinance.

Mrs. Pearl Ward addressed Council regarding the parking problems she encounters at her home. She said Council should go back to the square footage requirements. They told her they could not change the rules on Mr. Fout's project but it could change after it is approved.

Councilman Heyman moved to APPROVE the Development Order being seconded by Councilman Mellette. The motion CARRIED 4-0 on roll call.

13. TENTH STREET CROSSING RETENTION PONDS - PRELIMINARY PLANS

Mr. Keeth said this item is before Council as a matter of courtesy because these three ponds are located on City property, two of them flank the canal north of Tenth Street and the third is on the Hollyland Park property east of the existing access road on Tenth Street. He said the two ponds are located within the mosquito control right of way. They only need access along the easterly right of way of the canal and they have that. He said it would be reviewed when they review the plans. The issue for the City Council is whether or not to approve the layout. Mr. Gilbert said the two in the City yard do not pose any problem for Public Works and the third one is okay because he checked with the Recreation people. Mr. Martin explained the need for the ponds being located on the east and west side of the railroad.

Councilman Mellette moved to APPROVE the preliminary plans for the Tenth Street Crossing retention ponds. Councilman Byrnes seconded the motion which CARRIED 4-0 on roll call.

A brief recess was called and then Mayor Wine called the meeting back to order.

14. REQUEST FOR FINAL DEVELOPMENT ORDER AND SPECIAL EXCEPTION FOR HOLLY HILL OFFICE STORAGE (CAREY)

Mr. Keeth said the Board of Planning and Appeals granted approval subject to compliance with conditions in his memo. The plans have been revised and satisfy the conditions with two exceptions. One is they are one parking space short of the required 86 spaces but there is ample room on the property to fit in the additional parking space. The other condition is that they have asked for relief from the buffer and screening requirement on the east side of the property which requires a tree to be planted every 25 feet. The justification is that the existing tree cover is substantial and should do the job. They are asking relief on the south side of the property from the requirement that a six foot high wall be constructed. There is already a fence there but in addition to that, the Board of Planning and Appeals recommended they put in a hedge as well which would meet the Type B buffer requirements.

Mayor Wine said she wanted the screening to be the type required on the last applicant (Heavenly Cheesecakes). She said she did not think we should deviate from the screening requirements. A lengthy discussion ensued regarding the types of buffers .

Councilman Byrnes expressed concern over the project. He said he has a problem with "storage" being in the name and is concerned that the project will be something other than what was approved. Mr. Rick Evans, one of the partners in the project, explained if they put in trees, they would have to trim the overhanging trees back. He said they are putting in trees on the other sides of the project. After more discussion , Mr. Evans said they would put in the block wall if that was the only hang-up on approval.

Mr. Don Gonzalez said he had a number of questions. He said the trees are on his property and he understands that a wall will be constructed between his property and this site under consideration. The Plans did not show the fence but he was assured it would be added to the plans. Mr. Gonzales said 100% of the property is paved at this time and asked if any grade would be changed and would there be any retention ponds. Mr. Keeth said the plans do not show any grade change and they are exempt from the St. Johns District regulations because they are not changing the impervious surface area. Mr. Keeth said he has also asked, as a condition of approval, that the project meet the City's stormwater requirements. Mr. Evans said the buffer area around the project would be landscaped. Mr. Gonzalez said that does not appear to be in the plan. Mr. Evans said they had to put a ten foot buffer around the property plus meet the landscaping requirements. He said this adds up to over 1500 squared feet of paving to be removed and replaced with landscaping, sod, or trees.

More discussion ensued regarding the recently adopted ordinance governing buffers and Mr. Evans said they would comply with the wall requirement if that is all that is keeping Council from approving the project.

Councilman Mellette moved to GRANT the Special Exception and to APPROVE the project granting relief from the tree requirements on the east side of the property but with the wall to be constructed on the east and south side of the property and the project must meet the stormwater requirements as established by the City Engineer. Councilman Heyman seconded the motion which CARRIED 4-0 on roll call.

15. SELECTION OF WETLAND VEGETATION MONITORING CONSULTANT

Acting Public Services Director Alan Gilbert said the St. Johns River Water Mgmt. District requires the City, as a part of the consumptive use permit, to conduct a wetlands vegetation monitoring program twice a year. This is done twice a year, once in the wet season and once in the dry season. He said the City advertised for proposals but have held any decision in abeyance waiting for the Water Co-op to do this which would result in a substantial savings. Now, it looks like it will be some time before the Co-op is ready to move on this problem so staff recommends the City negotiate a contract with Tierra Verde Consulting, Inc.

Mr. Gilbert said this must be done in 1995 to meet permit requirements.

After more discussion, it was decided to hold this matter.

Mr. Gilbert asked to be allowed to check into the matter further and then report back to Council.

16. WATER TREATMENT PLANT FILTER REFURBISHMENT PROJECT

Mayor Wine said she would like to interject something at this point. She said these three filters have been in service for twenty-two years so if it is all the same she would like to wait until January when we have a new person on board. She asked what is a couple of months when we have waited over twenty years. Mr. Gilbert said he could see no harm in that.

17. COMMUNICATIONS FROM CITY MANAGER

A. Mr. Hester said staff had administratively suspended garbage fees for extra pickups for those who have had storm damage. Council members agreed unanimously.

B. The second item was a memo from the Garage Supervisor recommending the purchase of three pieces of equipment from Stark for $12,000. That covers the purchase of a forklift, endloader, and diesel truck at $4,000 each. Mr. Hester said this would upgrade the fleet and we could sell the old equipment and come up on the plus side as we can sell it for more than this new equipment will cost.

Mitch Wine briefed Council on how the City had purchased equipment and used the length of time required and now are in a position to purchase more equipment and sell the old.

Councilman Byrnes asked how we know we aren't buying someone else's problem. Mr. Wine said we are a full service City working on about 80% Stark equipment.

Councilman Mellette asked the Finance Director if we have the money and when she responded in the affirmative he moved to APPROVE the purchase being seconded by Councilman Heyman. The motion CARRIED 4-0 on roll call.

C. The third item discussed was whether or not to pay for spouses attendance at functions attended by Council where they represent the City. After talking about the pros and cons, the City Manager was instructed to write a new policy covering payment of spouses expenses at these functions.

D. The final item Mr. Hester brought up was the need for a brief Executive Session to be held following the meeting.

18. COMMUNICATIONS FROM CITY ATTORNEY

Mr. Simpson wished everyone a happy Thanksgiving

19. COMMUNICATIONS FROM MAYOR AND CITY COUNCIL

Councilman Byrnes said with the events of the last week (flooding) he hoped everyone would have a nice Thanksgiving. Councilman Mellette agreed and said he hoped everyone could learn from the situation.

Councilman Heyman said she would like to inquire about the salvage yard on Eleventh Street. She asked if anyone had ever had a problem with those folks blocking traffic. Mayor Wine said she has called the police many times. Chief Finn said his men have issued numerous citations. Councilman

Mellette said when he had a junk yard, the City told him he would have to do certain things or they would shut him down so he wondered why this would not apply to this junk yard too. A lengthy discussion ensued and the City Attorney was instructed to research this matter and see exactly what the City can do about this problem because it is a safety hazard.

Mrs. Heyman asked how much more work remains to complete the Police Department. The City Manager said they are working down there every day. He said some areas would not be expanded at this time but that the work is coming along.

Mayor Wine thanked the employees for working overtime, etc. during the storm and she asked the City Manager to send a letter of appreciation to L. W. Bray and Ron Johnston for the use of their barricades during the storm. They generously loaned their barricades to the City when we ran out of them last week.
Mrs. Wine also asked the City Manager to write a letter to the new businesses acknowledging the fact they have opened a business in the City and send regards from the Mayor, Council, and staff telling them to call if we can be of help to them. She said Mr. Harbuck should be able to furnish a list to Mr. Hester.

Councilman Mellette asked if we could deny a license to a business if we feel they will not be beneficial to the City. He said he and Tim talked about the business on Eleventh Street and Mr. Mellette asked him to drive to Bunnell and look at the business and then tell him if that is what we want in Holly Hill. Mr. Simpson said that is a broad question and he would look into it and try to have a report for the next meeting. Mr. Simpson explained in depth why we couldn't deny a business just because we don't like what they are doing.

Mr. Simpson said he could draft an ordinance which requires the business to maintain adequate staging, loading and unloading to engage in the business they are in and to the roadway they are on and tie it to safety. Councilman Mellette asked if they could be given a time limit to conform and if they fail to meet the deadline, then could we shut them down? Mr. Simpson agreed this could be done.

Chief Finn and Mr. Harbuck had some comments but did not come to the mike and could not be understood. Mayor Wine called attention to a business on Third Street where cars are parking on the right of way. Again, Chief Finn made comments which were not picked up by the recorder.

City Attorney Simpson said he would prepare an ordinance for Council's consideration, possibly for the first meeting in December.

Mayor Wine called Council's attention to the letter being sent to the Volusia County Council and she would like to put the DOT on notice we are not going to put up with those retention ponds because of the problem they caused. Mr. Simpson said he listened to the citizens earlier and if there is a defect in the design of the retention pond, those people may have a cause of action although there will be some sovereign immunity arguments.

Mayor Wine said the City needs to be active in this because it is affecting the pavement in the streets in our City. Mr. Simpson said if the City can show damage to the pavement as a direct result of design of the retention pond, then maybe the City can bring an action. Some of the folks should explore whether or not there are some defects in the design of the overflow of the retention ponds. Mr. Simpson said we could write a letter to them regarding the problems or meet with them but he isn't sure it would be proper to bring an action against the DOT.

Mr. Simpson said before a suit can be brought, the City would have to have someone do an engineering analysis to determine whether or not there truly is a defect and if there is, you can decide where to go from there. Mr. Gilbert said he is writing a letter to the DOT and their representatives telling them of the problem we have and asking to meet with them at staff level to explore this. He said we can't determine whether they had a deficiency in design until we know what their design is. They may have a perfectly valid design designed for a twenty-five year storm because nobody designs for a one hundred year storm. He said they have acknowledged that the ponds overflowed and over the phone we talked about the possibility of raising the berm around the ponds. He said he would pursue it from staff level and his letter will put them on notice from the City that we expect corrective measures. He said the Council would get copies of the letters. Mayor Wine said the Council wants action. More discussion ensued and the City Attorney was instructed to look into the matter and to report if the City can sue the DOT.

20. ADJOURNMENT

There was no further business to come before the City Council so the meeting was adjourned at approximately 10:20 p.m.

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Mayor

ATTEST:

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City Clerk-Manager