

MINUTES

**MINUTES
REGULAR COMMISSION MEETING
CITY OF HOLLY HILL, FLORIDA**

NOVEMBER 23, 2004

1. CALL TO ORDER

A. Roll Call

Mayor Arthur called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 7:07 p.m. Attending with Mayor Arthur were Commissioners Arthur Byrnes, Gilles Blais, Lou Schmitt, and Roland Via.

Also attending were City Manager Joe Forte, City Attorney Scott Simpson, Public Works Director Milton Hallman, Community Redevelopment Coordinator Marsha Radulovich, Finance Director Brenda Gubernator, Building Official Tim Harbuck, City Planner Bob Keeth, Economic Development Coordinator/Assistant to the City Manager Greg Wood, and City Clerk Valerie Manning.

B. Invocation

Greg Wood delivered the invocation.

C. Pledge of Allegiance to the Flag

2. PRESENTATIONS & PROCLAMATIONS

Mayor Arthur mentioned the Proclamation that was read to Mr. John Wooten at the Kiwanis meeting today for serving 40 years.

3. REORGANIZATION OF CITY COMMISSION

A. Appointment of Vice-Mayor

Mayor Arthur nominated Roland Via for Vice-Mayor.

*Commissioner Byrnes made a motion to **APPROVE** appointment of Roland Via as Vice-Mayor, seconded by Commissioner Blais.*

The motion **CARRIED** 5-0 on roll call: Byrnes – Yes, Blais – Yes, Schmitt – Yes, Via – Yes, Mayor Arthur – Yes.

B. Other Appointments

Mr. Forte stated the WAV Board appointment is for two year terms; they had a one year staggered term that Commissioner Via was filing for the WAV Board and his term is now up for re-appointment so they need to reappoint a member to the WAV Board for a two year term.

*Commissioner Schmitt made a motion to **APPROVE** re-appointment of Roland Via as a WAV Board member for a two year term, seconded by Commissioner Blais.*

The motion **CARRIED** 5-0 on roll call: Schmitt – Yes, Blais – Yes, Byrnes – Yes, Via – Yes, Mayor Arthur – Yes.

4. CONSENT AGENDA

Minutes of Impact Fee Surcharge Redevelopment District Workshop – November 9, 2004

Minutes of Regular Commission Meeting – November 9, 2004

Report of Purchase Orders over \$5,000

- **Textile Engineering – \$5,600**
- **Ringpower Systems – \$5,684**
- **Harry Burbage, Jr. – \$5,100**
- **Volusia County – \$5,916.79**

*Commissioner Via moved **APPROVAL** of the items on the consent agenda, seconded by Commissioner Schmitt.*

The motion **CARRIED** 5-0 on roll call: Via – Yes, Schmitt – Yes, Blais – Yes, Byrnes – Yes, Mayor Arthur – Yes.

5. COMMITTEE REPORTS

Members of the Commission are encouraged to give a brief report from the various committees on which they serve.

Commissioner Via stated that the WAV meeting took place last Wednesday and direction was given to the Executive Director to *begin* negotiations to talk to the City of Ormond Beach in reference to their \$4 million reverse osmosis plant that is going to treat brackish water that's to fit their size. According to the Interlocal Agreements these are the types of partnerships that WAV was looking to get involved in. The City of Deltona has asked, and we are still in preliminary discussions, about partnering with them in reference to four (4) new wells.

Commissioner Byrnes stated that the next Volusia League meeting is November 30. The Commission may have gotten a letter about the Legislative Priorities for the League; they are trying to figure out what the cities legislative priorities are going to be for their upcoming legislative session so if the Commission has any thoughts, please submit them and they will consider them.

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Commissioner Blais stated the Collegiate Events Task Force met on November 16 in Daytona Beach. The end results is that we need to coordinate with the News-Journal because they sponsor a lot of activities in the Daytona Beach area and also the Motel Owner Association have got to communicate with this particular committee and also other corporates and that includes the racetrack. They are on the right track in solving some of their headaches when they have special events in the greater Daytona Beach area.

Mayor Arthur stated with the Metropolitan Planning Organization, Mayor Costello from Ormond Beach was elected Chair and with VCOG, Dwight Lewis was elected Chair. He mentioned that there is some rather interesting things going on both boards. With VCOG they have a very interesting subject coming up in regards to an Ordinance that Ponce Inlet is pushing and bringing it to the County that's affecting everybody. One of the ideas was short-time rentals and it had to do with Bike Week and what it was doing to the neighborhoods.

6. AUDIENCE PARTICIPATION Regarding items not on the agenda.

Big John, 330 Mason Avenue, requested that his vote be changed to "neutral" on the Swerdlow Rezoning item, on the Minutes of the Regular City Commission meeting on November 9, 2004.

*Commissioner Via moved **APPROVAL** to modify the November 9, 2004 Regular City Commission Minutes, seconded by Commissioner Schmitt.*

The motion **CARRIED** 5-0 on roll call: Via – Yes, Schmitt – Yes, Byrnes – Yes, Blais – Yes, Mayor Arthur – Yes.

7. VARIANCE REQUEST – 558 MARTHA DRIVE – APPLICANT, RICHARD PASSWATER

Tim Harbuck gave a brief presentation. He stated that the owner wants to build a garage on the front of his house with a 25 foot 8 inch set back in lieu of the required 30 feet. This would be a relief of 4'4". If the owner was to build a required setback, he wouldn't be able to fit a car into it. Staff and the Planning Board recommend approval.

*Commissioner Schmitt moved to **APPROVE** the variance request, seconded by Commissioner Blais.*

The motion **CARRIED** 5-0 on roll call: Schmitt – Yes, Blais – Yes, Via – Yes, Byrnes – Yes, Mayor Arthur – Yes.

8. SECOND READING OF ORDINANCE 2702, REVISING THE COMPREHENSIVE PLAN TO ESTABLISH A RESIDENTIAL-BASED MIXED USE ZONING CLASSIFICATION

Mr. Simpson gave a brief presentation and wanted to review a little bit of where they are tonight and what items they are going to be hearing and give a brief overview. He briefly discussed the three Ordinances that are on the Agenda. Ordinance 2702, amendment to the Comprehensive Plan that creates this new future land use designation; Ordinance 2703, this is site specific; they are now taking a policy set in Ordinance 2702 and applying it to the property identified in Ordinance 2703; and Ordinance 2714, the Swerdlow rezoning request and with this they are sitting in their quasi judicial capacity. He recommends that they have all presentations and statements made during the first Ordinance and then they incorporate those statements into the second and third Ordinances if they get to those. Any additional comments that need to be made that are not made during the first Ordinance, he thinks they can then make those comments. To keep it simple and so the presentation is not broken up, he thinks they should present all the facts to the Commission and Mayor and staff at that outset and they will incorporate all those comments into the subsequent Ordinances. Have the applicant make his presentations first and then staff reports and then the applicant can obviously respond to any questions that the Commission might have and then have audience participation. He mentioned the sign-in sheet that was on the podium for Ordinances 2702 and 2703 for citizens to sign if they want to be notified from the DCA regarding the Comprehensive Plan. He then stated that each of the Commissioners and the Mayor need to generally discuss regarding the disclosure of any *additional* communications that they may have had since the last meeting, November 9-23, in regards to Ordinance 2714.

At this time each Commissioner and the Mayor made a comment.

Mr. Simpson read by short title:

ORDINANCE NO. 2702

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING ORDINANCE 2265, THE COMPREHENSIVE PLAN, AS PREVIOUSLY AMENDED; REVISING THE FUTURE LAND USE ELEMENT TO INCLUDE A NEW FUTURE LAND USE CATEGORY, RESIDENTIAL-BASED MIXED USE; ADDING NEW POLICIES PRESCRIBING WHAT USES, DENSITY OF RESIDENTIAL USES AND INTENSITY OF NON-RESIDENTIAL USES MAY BE PERMITTED IN THE RESIDENTIAL-BASED MIXED USE CATEGORY, AND PRESCRIBING WHERE AND UNDER WHAT CIRCUMSTANCES THE RESIDENTIAL-BASED MIXED USE CATEGORY MAY BE ASSIGNED; ADDING A NEW OBJECTIVE AND SUPPORTING POLICY PROMOTING URBAN INFILL AND REDEVELOPMENT, AND DISCOURAGING URBAN SPRAWL; PROVIDING FOR RESOLUTION OF CONFLICT WITH EXISTING ORDINANCES;

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PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Schmitt moved to **APPROVE** the Second Reading of Ordinance 2702, seconded by Commissioner Via.*

Rob Merrell, Attorney from Cobb and Cole, 150 Magnolia Avenue, Daytona Beach, gave a brief presentation. He showed various plans/exhibits of the development and the revised plans that Commissioner Byrnes was concerned about at the November 9 City Commission meeting. He went over the things that were changed since the last meeting at the request of Commissioner Byrnes. All those changes have been included in the package that was given to each Commissioner as well. He handed out an aerial photograph perspective of the property with the project superimposed on it. He gave brief comments on each of the three agenda items, Ordinances 2702, 2703, and 2714. He mentioned that City Planner Bob Keeth will discuss his conversations with the Department of Community Affairs (DCA) and update them in regards to their satisfaction with respect to their comments that they have made previously that the Commission has seen. He discussed briefly about the Community Redevelopment Area Plan. They have touched on various aspects of it and they've talked about TIF issues, tax related issues, and the types of financial issues that relate to the CRA and he briefly discussed the plan that the Commission adopted back in 1996 and he thinks they need to consider this when they adopt this new future land use element and applying it to the piece of property that they've requested. He briefly went over the changes on the plans that Commissioner Byrnes was concerned with at the last meeting and stated that everyone has agreed to the changes and they have been addressed as in Bob Keeth's memorandum. He asked for the Commission to refer to the colored Exhibits A-E in their Agenda packets for clarity and to see the changes that have been addressed.

Brett Dill, President of Swerdlow, stated he mentioned that they would love to have Parks Seafood there as part of the project. We thought that it was a real amenity if they could have put it in the park area. Even then there were complications because he thinks at their peak hours they have about 72 people in staff before the customers come to park there. He thinks that would be unlikely that they would be able to work that out and besides they particularly want the waterfront.

Bob Keeth, Senior City Planner, gave a brief presentation and went over the revisions that were made to Ordinance 2702 in response to the objections that they received from the Department of Community Affairs (DCA). It's their job to review it and comment and issue objections if it's needed and in this case they did raise four (4) objections and staff has met on many occasions since then and they have proposed some revisions to Ordinance 2702. He has had an opportunity to review those with the DCA and on a preliminary basis it appears that our revisions do satisfy their objections. At this time he was asking that the Commission and Mayor refer to his memorandum dated November 22, 2004 as he went over the objections and our responses and key issues that included compatibility, traffic impact, environmental impact, and public utilities.

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Jim Morris, Attorney, 420 South Nova Road, Daytona Beach, stated he wanted to thank staff for the opportunity for working with them and he has enjoyed very much how thorough Joe Forte is with the projects that he handles for the City and he does a very professional job for them. He was able to sit with staff collectively as they went through the Objections, Recommendations, and Comments Report (ORC) and the responses to DCA and worked with them to craft that although he was helping to tailor as opposed to create the solutions that they proposed. In regards to the application of the classification to the property, it is consistent with what the City's CRA plans call for.

Maureen Monahan stated she wanted to read a statement which is a little bit of history and then the rest really has nothing to do with anything other than the reason she lives in Holly Hill. She has lots of questions of what came up today regarding parking in a public area being used for commercial space and she thinks the Commission needs to look at that again. At this time she read a statement in regards to the reading of a request to change the Comprehensive Land Use plan. She mentioned at the August 24, 2004 City Commission meeting there was over 30 Holly Hill citizens appeared to address the Commission about building heights and density in residential areas and she states that none were permitted to speak on the subject. She states that the citizens have tried submitting a petition with over 250 signatures and it was ignored and then they formed "Save Holly Hill", a political action committee for the purpose of monitoring their City's actions and to preserve Holly Hill's integrity, character, and future, and more importantly to make sure citizens' voices are heard. At this time she read a personal biography of herself and why she moved here to Holly Hill.

Jim Legary, 342 Burleigh Avenue, stated he feels that the Commission is imposing their vision of what they want Holly Hill to be without much input from the citizens. He mentioned a quote from his grand-dad who spent 94 years here in Holly Hill. He stated that he wanted to quote an article from the News-Journal that was printed in 1955. He mentioned that he would like to get some kind of incubator for business and for people's participation in these activities. He feels he has had very little impact. He states that he is going to be living across the street from these condos and for eight years he is going to be listening to the construction taking place. He feels that not enough has been done to get some kind of concessions for the density bonus.

Big John, 330 Mason Avenue, asked if he understood the Commission clearly that they struck the other 16,000 square feet of commercial and he was told yes, that it was done. He stated that he didn't understand Mr. Keeth when he said a certain portion of the project has to be in the CRA. Mr. Simpson went over this briefly with Big John at this time. Big John mentioned the site plan review committee has agreed to allow the City Attorney to review the site plan at the Commission level and Mr. Simpson told him that is correct. Big John mentioned the performance sheet that was handed out but he was told that it was just an *estimate* and not really up for discussion at this time. He talked briefly about the Water and Sewer Impact fees and his concern for the impact fee surcharge that was discussed at a workshop and stated that he was unclear whether or not the developer is to pay the surcharge.

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Mr. Forte stated he could read the comment that is in the Development Agreement and that would explain how the developer will be responsible for upgrades to that.

Mr. Simpson stated basically it says that the *developer* is responsible to pay for *all* necessary expenses in improving the transmission system to provide service to their property.

The motion **CARRIED** 4-0 on roll call: Schmitt – Yes, Via – Yes, Byrnes – Yes, Blais – Yes, Mayor Arthur – Abstain.

9. SECOND READING OF ORDINANCE 2703, AMENDING THE COMP PLAN TO ALLOW A ZONING CHANGE FROM “MEDIUM DENSITY RESIDENTIAL” AND “GENERAL RETAIL COMMERCIAL” TO “RESIDENTIAL-BASED MIXED USE”

Mr. Simpson read by short title:

ORDINANCE NO. 2703

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2265, THE COMPREHENSIVE PLAN, AS PREVIOUSLY AMENDED, BY REVISING FIGURE II-6, THE FUTURE LAND USE MAP, TO CHANGE THE FUTURE LAND USE DESIGNATION OF APPROXIMATELY 18.15 ACRES LOCATED ON THE EAST SIDE OF RIVERSIDE DRIVE BETWEEN 2ND STREET AND SILVER BEACH DRIVE FROM “GENERAL RETAIL COMMERCIAL” AND “MEDIUM DENSITY RESIDENTIAL” TO “RESIDENTIAL-BASED MIXED USE”; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Schmitt moved to **APPROVE** the Second Reading of Ordinance 2703, seconded by Commissioner Via.*

Mr. Simpson stated as he indicated in his initial comments, they should incorporate all statements and comments that have been made as applicable to this Ordinance.

Ms. Monahan asked if the issue with 3rd Street had been resolved at this time and Mr. Simpson stated that it has not been resolved as of yet.

Commissioner Byrnes mentioned that when they were talking about the water structure and the dock and he said that he would like to see *both* occur and he didn't really hear any support from the Commission or response from the developer.

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Commissioner Via asked if he was talking about adding the splash park to the pier and he stated that he liked the idea but stated that Daytona Beach went through a lot of trial and error and they had to shut it down for health reasons.

Mr. Dill stated that he would make the fountain/splash park at the City's option.

Commissioner Byrnes stated that maybe it could be a splash park along the lines of what Epcot has so that the people get splashed by the water but they're not actually in it for health conditions.

Mr. Dill stated we would be happy to work with the City on that at our expense within reason but it would be the City's responsibility to maintain and if the kids slip and fall, we're out of that part of it. He then stated since they are not sure how much any of that costs, they will give the City \$50,000 to do what they please with it.

Commissioner Schmitt asked instead of the fountain?

Mr. Dill stated either way. They were going to do the fountain if they couldn't do the dock; that was like one or the other but he is throwing in \$50,000 for the City to do whatever they want with it.

Big John stated the splash park is called Sun Splash Park and it has nothing to do with the City of Daytona Beach. It is owned and controlled by the County of Volusia and that splash feature is nothing but trouble. He stated that the County has been sued because they didn't use the proper insecticides in the water and the kids were drinking the water and they got intestinal problems. He would recommend doing something a little bit different than a splash feature.

The motion **CARRIED** 4-0 on roll call: Schmitt – Yes, Via – Yes, Blais – Yes, Byrnes – Yes, Mayor Arthur – Abstain.

10. SECOND READING OF ORDINANCE 2714, SWERDLOW REZONING REQUEST

Mr. Simpson read by short title:

ORDINANCE NO. 2714

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2352, THE LAND DEVELOPMENT REGULATIONS, AS PREVIOUSLY AMENDED, BY REZONING APPROXIMATELY 18.15 ACRES LOCATED ON THE EAST SIDE OF RIVERSIDE DRIVE BETWEEN 2ND STREET AND SILVER BEACH DRIVE FROM R-8 (HIGH DENSITY MULTIFAMILY RESIDENTIAL DISTRICT) AND B-2 (PLANNED SHOPPING CENTER DISTRICT) TO MPUD (MIXED USE

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PLANNED UNIT DEVELOPMENT); APPROVING A MASTER DEVELOPMENT PLAN AND INCORPORATING IT INTO THIS ORDINANCE FOR THE PURPOSE OF REGULATING THE USE AND DEVELOPMENT OF THE PROPERTY; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Schmitt moved to **APPROVE** the Second Reading of Ordinance 2714, seconded by Commissioner Via.*

Mr. Simpson stated as he indicated in his initial comments, they should incorporate all statements and comments that have been made as applicable to this Ordinance.

Mr. Forte stated that they have an updated PUD Agreement that had some typographical errors and in fact there will be additional changes as a result of some of the decisions that the Commissioners made earlier this evening. They will be incorporated into the document and finalized.

Commissioner Byrnes stated they did a good job with the Traffic Study and since this is the part that makes the big difference, he would like to address the Traffic Engineer for a moment.

Traffic Engineer spoke at this time; 536 North Halifax Avenue, Suite 101, Daytona Beach.

Commissioner Byrnes stated that he read the report and it's very comprehensive but he wanted to make sure in laymen's terms that his report says what he has gotten out of it, is that basically the traffic impact will be less than if that project was used as a full commercial development that it could be now.

Traffic Engineer stated that is correct; even at its current size. At its current size, fully utilized, the proposed project will generate less than the current size if it were fully utilized. That is correct.

Commissioner Byrnes wanted to have that on the record.

Commissioner Via he wanted this to be on the record, this new study that they got is the one with a little bit of reduction because the restaurant and the traffic to that area was elevated, correct?

Traffic Engineer stated that's correct.

Commissioner Via stated you are also the traffic consultant for the proposed Smokey property just South of this project, is that correct?

Traffic Engineer stated that is correct.

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Commissioner Via asked if he took into consideration those traffic numbers when he was computing these traffic numbers?

Traffic Engineer stated that is two different cities. We use background traffic growth rates. They're meant to take into account that sort of thing by virtue of historical growth rates in using those growth rates to project into the future.

The motion **CARRIED** 4-0 on roll call: Schmitt – Yes, Via – Yes, Byrnes – Yes, Blais – Yes, Mayor Arthur – Abstain.

11. COMMUNICATIONS

A. City Manager

On November 30 at 4:30 p.m. the Halifax Habitat for Humanity is having another groundbreaking in the City of Holly Hill and has asked that the Commission attend on Espanola just South of Flomich.

B. City Attorney

None.

C. Mayor and Commissioners

Commissioner Via stated thank you for the vote of Vice-Mayor, he appreciates that and it means a lot to him. Congratulations to Mr. Wooten for 40 years of service. Also, he wanted to welcome Valerie Manning as their new City Clerk who did a great job the first meeting, a good job the second meeting, she didn't miss a beat, the Minutes were right on and they really appreciate that. He stated that he was concerned; they were kind of spoiled but he doesn't sense any problems or anything; welcome aboard. At the last meeting they happened to not mention a very, very dynamic citizen in their City and that was former Mayor Ruth Starr and the Mayor and himself did attend her service the day of the Veteran's Parade. He wanted to ask the Commission if they could do something and he is saying this in the spirit of openness. He thinks this is something easy that they can do. He would like to bring it up at a workshop sometime when they talk about a Mayor's park and some memorials that are there, that Ruth Starr was very instrumental in getting the Residential Beautification Award started because the businesses all had that. He asked if they could name their Beautification Award, "The Ruth Starr Residential Beautification Award"? He stated that he thinks this would be a way to honor her.

Commissioner Blais stated he would agree with that. As a footnote, she was the one that rejuvenated the sidewalk programs in the City of Holly Hill.

Commissioner Via asked if there was consensus can they give staff direction or do they want to make a motion to fix the sign?

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*Commissioner Via made a motion to **APPROVE** fixing the Residential Beautification Award sign by naming it “The Ruth Starr Residential Beautification Award”, seconded by Commissioner Schmitt.*

The motion **CARRIED** 5-0 on roll call: Via – Yes, Schmitt – Yes, Blais – Yes, Byrnes – Yes, Mayor Arthur – Yes.

Commissioner Via stated this Friday, in the City of Ormond Beach, he wants to invite everybody to come along to the Gas Light Parade at 7:00 p.m. Welcome Brett Dill to the City of Holly Hill and all his staff and Bob Merrell as well and his staff.

Commissioner Byrnes stated he is glad that Commissioner Via brought up Ruth Starr because she was a major influence in the early days of the City. There are a lot of things the City has today, such as the early bar closings which was a direct effect of her getting out there and getting the citizens involved. He thinks it would be nice to have a park as well. He welcomed Valerie Manning as the new City Clerk and that’s why he challenged Big John with the Minutes because the Minutes have been perfect. She has done a fine job and he was concerned that Big John was making some kind of sly remark there and he wanted to make sure that they know that she is doing a fine job with the Minutes. Happy Thanksgiving and think about our Troops.

Mayor Arthur stated Ruth Starr was a great woman who died a few years ago and a good friend and a help to this community.

Commissioner Blais stated on the subject of Ruth Starr, in the Police Department you always have problems so on the midnight shift they always go visit certain people and they visited Ruth Starr. She supported the Police Explorers. She did improve the community for the kids going to and from school with the sidewalks. He stated that he has been a Commissioner now for one year and he has enjoyed it and likes the people that show up at the meetings and he hopes they do come to the Commission meetings. On November 7 they had a Veteran’s Day Parade in Holly Hill, the first one. On yesterday, with a couple of City employees he went to the Bethune Cookman Performing Arts Center to pass his regards to fellow Commissioner Charles W. Cherry, Sr. from Daytona Beach.

Commissioner Schmitt stated he wanted to wish everyone a Happy Thanksgiving and for this “Support Holly Hill” group of people, he enjoyed working with them and enjoyed their meetings and their input and stated to please continue being a part of this City because he doesn’t know it all up here and he relies on input from the residents of this City to help him do his job better. He appreciates their input. Thank you to Mr. Dill and his staff. Welcome to Holly Hill.

Mayor Arthur stated the Holly Hill Christmas Tree Lighting is on Friday, December 3 at 5:30 p.m. and Miss America, Erica Dunlap will be there. He believes the condo project is a good thing for the community and he is looking forward to it. Happy Thanksgiving to everyone.

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12. ADJOURMENT

The meeting officially adjourned at approximately 10:20 p.m.

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

William D. Arthur
Mayor