M I N U T E S
REGULAR COMMISSION MEETING
CITY OF HOLLY HILL, FLORIDA
November 9, 1999

1. CALL TO ORDER

Mayor William Arthur called the meeting to order in Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 7:30 p.m. Attending with Mayor Arthur were Commissioners Arthur Byrnes, Paul Lockeby and Roland Via. Commissioner Shirley Heyman was excused absent.

Also attending were Acting City Manager Joe Forte, City Attorney Edward Simpson, Public Works Director Milt Hallman, Public Works Manager Tim Miller; Police Chief Larry Walker, Fire Captain Randy Ast, Code Development Administrator Tim Harbuck, City Planner Bob Keeth, Economic Development Administrator Ira Corliss, Personnel Director Diane England, and City Clerk Jeaneen Clauss.

2. INVOCATION

Public Works Director Milt Hallman delivered the invocation.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. SWEARING-IN CEREMONY
Commissioner Roland Via
Commissioner-Elect Paul E. Lockeby

City Attorney Edward Simpson swore in Commissioners Roland Via and Paul Lockeby, who were re/elected in the General Election held on October 5th 1999.

5. PRESENTATIONS & PROCLAMATIONS

Mayor Arthur presented outgoing Commissioner J.D. Mellette with a plaque in appreciation of his ten years of Commission service to the City. Roy Phipps, Chairman of the Planning and Appeals Board, relayed the Board's appreciation of Commissioner Mellette.

Mayor Arthur called a recess of the meeting and invited everyone to have cake and coffee in the Conference Room.

- Recessed at approximately 7:40 p.m. –

- Reconvened at approximately 8:15 p.m. –

6. CONSENT AGENDA

A. Minutes of Regular Commission Meeting – Oct. 26, 1999

B. Minutes of Commission Workshop – Oct. 26, 1999

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

Motion **CARRIED** 4-0 on the following roll call: Via – yes, Byrnes – yes, Lockeby – yes, Arthur – yes.

7. AUDIENCE PARTICIPATION

None.

8. POLICE PENSION MEMBERSHIP

Mayor Arthur stated that he had requested this item on the agenda because Don Lusk, their Ex-City Manager, is still serving on this board. Mayor Arthur recommended that since Mr. Lusk was removed as City Manager he should also be removed from this Pension Board. Commissioner Via asked if this had been cleared with the attorney for appointment and removal. City Attorney Edward Simpson advised that the Assistant City Attorney had researched this and Mr. Lusk's position served at the pleasure of the Commission. Acting City Manager Joe Forte stated that previously Mr. Lusk had told him that he would either serve or not serve, that it was up to the Commission. Commissioner Byrnes stated that he did not want to leave a blank spot on the board. Commissioner Via stated that he had two names to nominate: 1) Russell Lathrope and 2) Gillis Blaise. Commissioner Byrnes asked if Mr. Lusk was doing this as a private citizen or as a city employee? Mr. Forte responded that it was as a private citizen. Commissioner Lockeby asked if Mr. Lusk had embezzled any funds or do any wrong doing? Mr. Forte said not to our knowledge.

*Commissioner Via moved to **REMOVE** Donald Lusk from the Police Pension Board of Trustees and replace with Russell Lathrope, seconded by Commissioner Byrnes.*

The motion **CARRIED** 3-1 on roll call: Via – yes, Byrnes – yes, Lockeby – no, Arthur – yes.

9. SECOND READING OF ORDINANCE 2571, AMENDING LAND DEVELOPMENT REGULATIONS SPECIAL EXCEPTION CRITERIA FOR RESTAURANTS ABUTTING RESIDENTIAL DISTRICTS

City Attorney Edward Simpson read Ordinance 2571 by short title:

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE NO. 2352, THE LAND DEVELOPMENT REGULATIONS, SECTION 5.6.1, PARAGRAPH AC; MODIFYING BUILDING SETBACK,

PARKING, SCREENING AND OTHER REQUIREMENTS PERTAINING TO CERTAIN RESTAURANTS LOCATED ON PROPERTIES ABUTTING ANY R-1 THROUGH R-9 ZONED PROPERTY; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Via moved **APPROVAL** of the Second Reading of Ordinance 2571, seconded by Commissioner Lockeby.*

Commissioner Byrnes reiterated that he was only voting against this because he felt that it should give better protection to the R-1 districts, as he felt it was a good ordinance, otherwise. Commissioner Via stated that was a good point and they would have to watch each special exception request.

The motion **CARRIED** 3-1 on roll call: Via – yes, Lockeby – yes, Byrnes – no, Arthur – yes.

10. VARIANCE REQUEST FOR PROPERTY LOCATED SOUTH SIDE OF FLOMICH AVENUE BETWEEN U.S. HIGHWAY #1 AND ESPANOLA AVENUE, PROPOSED ECKERD DRUGSTORE

*Commissioner Via moved **APPROVAL** of variance request, seconded by Commissioner Byrnes.*

Jim Morris spoke on behalf of the applicant, stating that they were making this request for property located in the CC-1 district, in the redevelopment corridor. He stated that this would be a good development for the community at large and the neighborhood in particular, and that this does not impose any different or greater impact than that of other similarly situated driveways. Mr. Morris addressed City Planner Bob Keeth's recommendation against this request, stating that as an administrative representative, Mr. Keeth must go strictly by the Code which is currently in place. However, the Planning and Appeals Board has more discretion in judgement and they recommended in favor of this request. Mayor Arthur asked Mr. Keeth if he felt this was a good and worthwhile project. Mr. Keeth responded that he did and that as a practical matter he felt that it would improve traffic circulation in the area and reduce the hazards of traffic turning movements. He added that he did not think that it would be an imposition on the neighborhood. Commissioner Byrnes asked Police Chief Larry Walker about the results of the "robot-radar" and Chief Walker stated that there was not going to be a problem in that area. Acting City Manager Joe Forte stated that he had reviewed the radar results given to him by Corporal Currie and they were surprisingly within range.

The motion **CARRIED** 4-0 on roll call: Via – yes, Byrnes – yes, Lockeby – yes, Arthur – yes.

11. VARIANCE REQUEST FOR PROPERTY LOCATED AT 1531 CENTER AVENUE, HOLY CROSS EASTERN ORTHODOX MISSION, INC.

Commissioner Byrnes moved ***APPROVAL*** *of variance request, seconded by Commissioner Via.*

Ted Dardaganis, Pastor Council President, stated that they purchased this building in 1997, have spent at least $50,000 on renovations, and have received many compliments from the neighbors, etc… They are requesting to extend the north side of the building by seven feet so they can establish Sunday School classes. Commissioner Byrnes asked him if they liked being in Holly Hill. Mr. Dardaganis stated that they did very much, as it was convenient to the parishioners. Mayor Arthur stated that the contractor who appeared at the Planning and Appeals meeting the night before had stated that they are growing so fast that they probably wouldn't be there very long. Mr. Dardaganis stated that it was very unlikely that they would move, especially if they could have a Sunday School. Commissioner Lockeby asked if seven feet was enough. Mr. Dardaganis stated that it would be because they were taking down a wall, which would give them the other twenty feet that is there already. Mayor Arthur stated that he owned the building behind him and did not receive a notice of the hearing of this request.

The motion **CARRIED** 4-0 on roll call: Byrnes – yes, Via – yes, Lockeby – yes, Arthur – yes.

12. VARIANCE REQUEST FOR PROPERTY LOCATED IN 1500 BLOCK OF STATE AVENUE, SIDNEY BLAIR PROJECT

This item was removed from the agenda, due to the tabling of it at the Planning and Appeals Board on November 8th. Planning and Appeals will discuss it at their December meeting and then it will be placed again on a Commission agenda.

13. RESOLUTION 99-R-44, ESTABLISHING A COMPLETE COUNT COMMITTEE PROGRAM FOR CENSUS 2000

City Attorney Edward Simpson read Resolution 99-R-44 by short title:

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA ESTABLISHING A COMPLETE COUNT COMMITTEE PROGRAM; ESTABLISHING TERM EXPIRATIONS; AND PROVIDING AN EFFECTIVE DATE. Members of said committee are as follows: Kathy Egly, Rev. Chuck McKewon, Duane Howe, Bissey Holden, Mayor Bill Arthur, Commissioner Roland Via, Brenda Gubernator, and Ira Corliss.

Commissioner Byrnes asked if there would be any Sunshine Law problems from having two Commissioners on this board. Mr. Simpson stated that they would have to comply with the Sunshine Law, posted meetings, etc…

Commissioner Byrnes moved ***APPROVAL*** *of Resolution 99-R-44, seconded by Commissioner Lockeby.*

Acting City Manager Joe Forte relayed to the Commission the importance of this Committee in making the public aware of the Census 2000 information. Every person missed in the census is said to cost the City fifteen hundred dollars per year. Economic Development Administrator Ira Corliss is heading up this Committee. Additional members would be added to help out.

The motion **CARRIED** 4-0 on roll call: Byrnes – yes, Lockeby – yes, Via – yes, Arthur – yes.

14. RESOLUTION 99-R-45, AWARDING A NUISANCE ABATEMENT CONTRACT TO BARTON & BARTON, INC.

City Attorney Edward Simpson read Resolution 99-R-45 by short title:

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA AWARDING A NUISANCE ABATEMENT CONTRACT TO BARTON & BARTON, INC.; AUTHORIZING THE MAYOR AND/OR THE CITY MANAGER TO EXECUTE THE NUISANCE ABATEMENT SERVICE AGREEMENT WITH SAID COMPANY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Via moved **APPROVAL** of Resolution 99-R-45, seconded by Commissioner Byrnes.*

Commissioner Byrnes expressed concern about going with the lowest bidder. He then asked how we determined the difference when a bid stated per hour or per man hour. Acting City Manager Joe Forte stated that we reviewed these carefully because they didn’t want to open themselves up to an unlimited number of workers on a job at twenty-five dollars per hour (or more) each. Code Enforcement Officer Ed Lee sat down with Barton & Barton and discussed the City’s expectations, as outlined in the proposed contract. Mr. Lee and Development Code Administrator Tim Harbuck recommended this company. Commissioner Via asked about contract provision item three - where it refers to the contractor being responsible for the hauling away of all debris or they could set it at the edge of the road, if there is a garbage account open for that lot. He asked who would pick up the cost if the amount set by the road exceeded the normal allowance to be picked-up by Jennings. Mr. Forte stated that the additional part of Jennings bill would be added to the lien against the property. Travel time for removal of debris will be billed at the same hourly rate listed in the contract. Mr. Harbuck advised that Mr. Lee would be monitoring the contractor to ensure time was not being wasted. Mayor Arthur stated that we don’t want to do what we just did with the janitorial service and spend more money monitoring than it would cost to perform the job. Commissioner Via confirmed that the bid was within their normal cost for this service. Mr. Harbuck responded that it was, and actually a little less. Commissioner Lockeby asked if the City has an “out” on this, in case they were not satisfied with the work. Mr. Simpson responded they did, thirty-day notice without cause. Commissioner Via confirmed the contract duration, two years with two one-year extensions. Commissioner Lockeby asked how often do they have to take this kind of action with a piece of property. Mr. Harbuck advised, regularly. Commissioner Byrnes asked about the liens that the City holds, as he did not remember any coming before them. Mr. Forte responded that liens do not require Commission approval (they are standard operating procedure when money is owed and payment is not received, in accordance with law).

The motion **CARRIED** 4-0 on roll call: Via – yes, Byrnes – yes, Lockeby – yes, Arthur – yes.

15. U.S. MEDIAN BEAUTIFICATION PROJECT

Acting City Manager Joe Forte stated that we were at a position now where You&Me Gardens has not completed the job to the specifications of DOT for the grant reimbursement. Assistant City Attorney Scott Simpson gave them a punch list of the work that needed to be done. They still have not complied. The City is withholding twenty-five percent of the money that is owed to this company and with that they would like to hire Tif-Jen for $20,750 to bring the medians up to an acceptable level, so that the City can request the seventy-five thousand dollar grant reimbursement. Any remaining money would be distributed among the subcontractors, giving them about forty-five cents on the dollar. Commissioner Byrnes expressed concern about Tif-Jen, based on their high bid for the nuisance abatement contract. Public Works Director Milt Hallman stated that they told him that when they inquired about the particulars of the work they didn't attain a clear-cut response so they just bid high as if to say, whatever it is – we'll do it for this! ($200/hour) Commissioner Byrnes confirmed that it was not Holly Hill being picky but You&Me had not met DOT standards. Commissioner Lockeby expressed concern about the lack of local bidders. Mr. Hallman advised that this Request for Proposals was well advertised and local companies had every opportunity to bid. Commissioner Via stated that they learned a lesson here, as Commissioner Byrnes had warned earlier, that this was one of those projects that they did not require a bond on. Mr. Hallman agreed. Commissioner Lockeby asked what this would end up costing the City in attorney's fees to dispute the likely claim from You&Me, $20,750? Mr. Simpson stated that he hoped not and they shouldn't, but it depends on how far it is pursued. Commissioner Byrnes expressed great concern over the payment they were planning to make to the subcontractors, who may be the actual problem instead of You&Me. Mr. Simpson recommended that the City hold that money until all of this could be worked out. Mr. Hallman agreed, as did the Commission. Mayor Arhur asked that any additional payment to the contractor or subcontractors come back to the Commission for approval.

*Commissioner Via moved **APPROVAL** of the contract with Tif-Jen, Inc. for $20,750 to furnish all labor, materials and equipment to bring the You&Me Gardens contract up to acceptable standards of the FDOT and the City, seconded by Commissioner Lockeby.*

The motion **CARRIED** 4-0 on roll call: Via – yes, Lockeby – yes, Byrnes – yes, Arthur – yes.

16. PAYMENT TO JENNINGS ENVIRONMENTAL FOR DEBRIS REMOVAL FROM HURRICANE FLOYD

Acting City Manager Joe Forte stated that the detailed back-up information on this bill was attached in their packets. He added that this will be submitted through the FEMA reimbursement process and we can anticipate a seventy-five percent reimbursement from the federal government and twelve and a half percent from the State, leaving the City responsible for twelve and a half percent – unless the State decides to absorb that also. Mayor Arthur asked about Hurricane Irene's clean-up. Mr. Forte stated that they would be receiving a similar bill from that one, which would also be FEMA reimbursable. Commissioner Via stated that is why they have their reserve. Commissioner Byrnes stated that he wished Finance Director Brenda Gubernator were here this evening so that he could apologize to her because she was right, they do have instances arise where they need a reserve.

*Commissioner Lockeby moved **APPROVAL** of payment of $125,817.20 to Jennings Environmental, seconded by Commissioner Byrnes.*

The motion **CARRIED** 4-0 on roll call: Lockeby – yes, Byrnes – yes, Via – yes, Arthur – yes.

17. PURCHASE OF THERMAL IMAGING SYSTEM

Acting City Manager Joe Forte stated that this is what is called the Fire FLIR, a thermal imaging system similar to the Cairnes Iris. New technology has come out over the last two years and they have been trying to purchase a thermal imaging system for the fire department. The firefighters have compared these two products and recommend the Fire FLIR, which mounts to any helmet. Through the money that was raised through the firefighters local 3470 and the Chamber of Commerce, the City only needed to pay about ten thousand dollars for this. Mayor Arthur asked about the cost of the other unit. Mr. Forte advised that it was about four thousand dollars more. Mayor Arthur stated that he had worn both units and this unit provided better depth perception than the other. Mr. Forte asked that they approve this contingent upon the purchasing agreement being approved by the attorney because Assistant City Attorney Scott Simpson had found some things that he did not like about this agreement and wanted to see some changes made. Commissioner Lockeby confirmed they would need to budget to maintain this for future years. Commissioner Byrnes inquired as to what would happen if it fell off in a fire. Mr. Forte responded that it is able to withstand very high temperature levels. Commissioner Via stated that he was proud that Holly Hill would have a piece of leading edge technology and that one life saved would make the cost worthwhile.

*Commissioner Via moved **APPROVAL** of the purchase of the Fire FLIR Thermal Imaging System for $24,870, contingent upon the attorney's approval of the purchasing agreement, seconded by Commissioner Byrnes.*

The motion **CARRIED** 4-0 on roll call: Via – yes, Byrnes – yes, Lockeby – yes, Arthur – yes.

18. ORGANIZATIONAL APPOINTMENTS

A. Vice-Mayor **C. Finance Officer**

B. Personnel Officer **D. Chamber of Commerce Liaison**

Mayor Arthur stated that everyone should share in being vice-mayor and that for that reason he recommended Commissioner Roland Via. Mayor Arthur stated that Commissioner Arthur Byrnes has been one of the greatest Commissioners this City has ever had and he has served in this capacity before.

Mayor Arthur passed the gavel and moved to ***APPOINT*** *Commissioner Roland Via as Vice-Mayor, seconded by Commissioner Via.*

Commissioner Via stated that he considered it an honor to serve for the Mayor and he would willingly accept. Commissioner Lockeby indicated that he felt they should wait until Commissioner Shirley Heyman could be present.

The motion **TIED** 2-2 on roll call: Arthur – yes, Via – yes, Byrnes – no, Lockeby – no.

This item will be scheduled for another meeting when Commissioner Heyman can be present.

19. COMMUNICATIONS FROM CITY MANAGER

a. Status of City Manager Application Process

Acting City Manager Joe Forte stated that the direction he was given by the Commission back in August was to advertise this position throughout October, taking applications through November. The deadline is set for November 19th, though it has been suggested that they extend the application process through the month of January because of the upcoming holidays, additional applicants becoming available, and the January deadline is more enticing to him – timeframe wise.

Commissioner Byrnes moved ***APPROVAL*** *of continuing status quo through January 2000, seconded by Commissioner Lockeby.*

Commissioner Byrnes stated that he's been very happy with Mr. Forte's operations and he felt this would give Mr. Forte time to decide if he wants to continue in this career or return to Fire Service. He added that he felt Mr. Forte has done a wonderful job, as there are other folks that have sat in that chair that have had more experience and more education who didn't do as good as he's done. Mayor Arthur stated that he agreed and this would give Commissioner Lockeby time to get to know Mr. Forte. He added that he was very impressed by the way Mr. Forte has given the Commission the facts and let them make the decision, as it should be. Commissioner Via stated that the holidays are not the best time to hire someone and he agreed that Mr. Forte had done a good job and serves them with integrity. Commissioner Lockeby acknowledged the time that Mr. Forte had invested into this City and stated that he felt very comfortable with him and would hate to see someone new being broken in, who doesn't know the "ins and outs".

The motion **CARRIED** 4-0 on roll call: Byrnes – yes, Via – yes, Lockeby – yes, Arthur – yes.

Mayor Arthur asked if they could hire Mr. Forte without going through the applications and interviewing other people. Mr. Forte responded that they could. City Attorney Edward Simpson agreed stating that Charter specifies that the Commission shall appoint a City Manager and they serve at their pleasure.

b. Sunshine Law and Parliamentary Procedure Forum

Mr. Forte stated that this is designed for newly elected officials, though anybody can attend. It is tomorrow night at six thirty in the evening at DBCC, Building 16, Room 102.

c. City Clerks' Conference / 2nd Commission Meeting in November

Mr. Forte stated that City Clerk Jeaneen Clauss would be attending this conference all of next week and that she usually prepares the agenda packets. All the items for the last meeting of this month were pushed on this agenda to accommodate the holidays as well as the absence of the City Clerk. He advised that as of now they do not have anything for a second meeting and asked for Commission direction on whether or not to hold that meeting.

*Commissioner Byrnes moved **APPROVAL** of canceling the second meeting in November for the Thanksgiving holidays, seconded by Commissioner Lockeby.*

Commissioner Via expressed concern about missing a workshop. It was stated that Mr. Forte could request a Special Meeting or Workshop, if needed.

The motion **CARRIED** 3-1 on roll call: Byrnes – yes, Lockeby – yes, Via – no, Arthur – yes.

20. CITY ATTORNEY

City Attorney Edward Simpson indicated he had nothing further to report.

21. COMMUNICATIONS FROM MAYOR & COMMISSION

Mayor Arthur requested that City Clerk Jeaneen Clauss keep track of the order of Commission communications, so he can alternate it.

Commissioner Lockeby thanked everyone for being helpful, as he adjusted to his new position on the Commission.

Commissioner Via reiterated the sentiment expressed by Public Works Director Milt Hallman in his invocation for Archie Gallon, Holly Hill Elementary School Principal, who was accosted while walking his dog in the neighborhood and shot in the leg. Commissioner Via also stated that he looked forward to the next four years.

Commissioner Byrnes welcomed Commissioner Lockeby, stating that he had a lot of nice things to say about outgoing Commissioner Mellette but none of that takes away from his confidence in Commissioner Lockeby. Commissioner Byrnes then wished everyone a Happy Thanksgiving!

Mayor Arthur congratulated Commissioner Lockeby and Commissioner Via for winning their election or re-election, stating that the biggest honor is when you are re-elected because that means the public approved of what you have done before. Mayor Arthur inquired about the status of the Dog Park cooperative effort? Acting City Manager Joe Forte stated that Holly Hill (as the lead city) has solicited both Volusia County and Ormond Beach to work together to develop this project on County owned property within our City limits. These other entities are in accord with the idea and they are working on a contract to split the construction and maintenance costs. They are looking at about a one-year timeframe for completion of a very nice dog park. Mayor Arthur indicated that he would like to see their ordinance prohibiting dogs from City Parks repealed to allow leashed dogs. Commissioner Byrnes stated that he would only support an ordinance like one from a City down south, which required the pet owner to have a scooper in hand. Mayor Arthur agreed. Mr. Forte will move forward with their direction.

22. ADJOURNMENT

The meeting officially adjourned at approximately 9:25 p. m.

City of Holly Hill

____
William D. Arthur, Mayor

Attest:

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Jeaneen P. Clauss, City Clerk