M I N U T E S
REGULAR COUNCIL MEETING
CITY OF HOLLY HILL, FLORIDA
FEBRUARY 28, 1995.

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, Councilman Shirley Heyman and Councilman Jim Elliott.

Also attending were Acting City Manager Tim Harbuck, Assistant City Attorney Scott Simpson, Chief of Police Pat Finn and Deputy City Clerk Sue W. Blackwell.

2. INVOCATION

The Invocation was given by Public Works Manager Milton Hallman.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. AUDIENCE PARTICIPATION

None.

5. CONSENT AGENDA

A. Approval of Minutes - Regular Meeting - February 14, 1995
Special Meeting - February 21, 1995

Councilman Heyman moved to APPROVE the Consent Agenda being seconded by Councilman Elliott The motion CARRIED 5-0 on roll call.

6. RESOLUTION NO. 10 AMENDING CLASSIFICATION AND PAY PLAN

Assistant City Attorney Simpson read:

RESOLUTION NO. 95-R-10
A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, REPEALING CHAPTER IV (COMPENSATION PLAN), SECTION H (DEMOTIONS) OF THE CITY OF HOLLY HILL CLASSIFICATION AND PAY PLAN; ADOPTING A NEW SECTION H (DEMOTIONS) OF

CHAPTER IV (COMPENSATION PLAN) OF THE CITY OF HOLLY HILL CLASSIFICATION AND PAY PLAN TO PROVIDE FOR A FIFTEEN PERCENT (15%) MAXIMUM REDUCTION IN PAY FOR INVOLUNTARY DEMOTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Councilman Elliott moved to ADOPT the resolution being seconded by Councilman Heyman. The motion CARRIED 5-0 on the following roll call:

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

7. ORDINANCE NO. 2393 AMENDS LAND DEVELOPMENT REGULATIONS REGARDING PARKING AND STORAGE OF BOATS, RECREATIONAL VEHICLES AND EQUIPMENT AND PARKING AND STORAGE OF TRUCKS AND COMMERCIAL VEHICLES IN RESIDENTIAL ZONING DISTRICTS

Assistant City Attorney Simpson read:

ORDINANCE NO. 2393
AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA REPEALING SECTIONS 5.6.9 (PARKING AND STORAGE OF BOATS, RECREATIONAL VEHICLES AND EQUIPMENT) AND 5.6.11 (PARKING AND STORAGE OF TRUCKS AND COMMERCIAL VEHICLES IN RESIDENTIAL ZONING DISTRICTS) OF THE LAND USE AND DEVELOPMENT REGULATIONS AND ADOPTING NEW SECTIONS 5.6.9 (PARKING AND STORAGE OF BOATS, RECREATIONAL VEHICLES AND EQUIPMENT) AND 5.6.11 (PARKING AND STORAGE OF TRUCKS AND COMMERCIAL VEHICLES IN RESIDENTIAL ZONING DISTRICTS); PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Councilman Heyman moved to ADOPT the ordinance on final reading being seconded by Councilman Mellette.

Ten different citizens opposed adoption of the ordinance (as presented) for one reason or another. This item was discussed for over an hour and a half. *During the discussion Councilman Heyman said she would move to TABLE the ordinance.* Following more discussion on the ordinance, there was no second to the motion to Table, instead, Council voted 0-5 on the first motion as follows:

Heyman, no; Mellette, no; Elliott, no; Byrnes, no, Wine, no.

Council directed staff to consider further the possibilities of fencing, screening, etc. on the RV storage, length of RVs and boats; being able to park commercial vehicles at home behind a fence, limit on number of commercial vehicles being parked in a residential zone, and asked for criteria from the Board of Planning and Appeals on Special Exception process.

Acting City Manager Harbuck announced the Board of Planning and Appeals would be considering this matter at their meeting on April 3, 1995 at 7:30 p.m. in Sica Hall.

8. DEFINITION AMENDMENT TO THE LAND USE AND DEVELOPMENT REGULATIONS

City Planner Bob Keeth read:

" **Convenience Store** - A premises from which is offered for sale foods, drugs, and sundries commonly used for the day-to-day living needs of the residents of the immediate neighborhood. The sale of food may include sale of prepared foods ordered over the counter or over the telephone for consumption on or off premise with a maximum seating capacity of 20% of the net floor area. Such sale of prepared foods shall be incidental and subordinate to the customary principal functions of a convenience store. Characteristically, such establishments are intended to serve the customers attracted from the immediate neighborhood and shall be designed to serve a relatively low volume of customers. Off premises delivery of prepared foods shall not be allowed. This definition shall not be construed to permit "Type A" and "Type B" restaurants which serve prepared foods, for consumption on or off premises, as a principal function.

Section 2. The definition of the phrase "net floor area" is hereby added to Section 2.2 (Definitions) of the Holly Hill Land Use and Development Regulations to read as follows:

Net Floor Area - The sum of the area that is used to display the merchandise for sale and to which is open for public access. This excludes areas used for storage of inventory, restrooms (including public) and the counter area where the cash register and other such items are located.

Section 3. Section 6.3.16 (E) (Off-Street Parking And Loading Facilities) of the Holly Hill Land Use and Development Regulations is hereby amended as follows:

Convenience Store	1 per 200 sq. ft. gross floor area plus 1 for each employee on the largest shift plus 1 for every 3 customer seats, if seating is provided for on site consumption of food."

Mr. John Ferguson represented the applicant Suleiman K. Suleiman. Council said they were not in favor of allowing tables where patrons could sit and consume food in convenience stores, that when you did this the stores become a restaurant. Councilman Byrnes asked Mr. Ferguson if his client still wanted to be able to serve pizza if he wasn't allowed to have tables. Mr. Ferguson conferred with his client and then informed Council they would like to proceed with the amendment without tables.

Assistant City Attorney Simpson read:

ORDINANCE NO. 2395
AN ORDINANCE OF THE CITY OF HOLLY HILL FLORIDA AMENDING SECTION 2.2 (DEFINITIONS) OF THE HOLLY HILL LAND USE AND DEVELOPMENT REGULATIONS AMENDING THE DEFINITION OF CONVENIENCE STORE TO ALLOW FOR THE SALE OF PREPARED FOODS FOR CONSUMPTION WHETHER ON OR OFF THE PREMISES AS AN INCIDENTAL USE; AMENDING SECTION 2.2 (DEFINITIONS) OF THE HOLLY HILL LAND USE AND DEVELOPMENT REGULATIONS TO CREATE A DEFINITION OF NET FLOOR AREA; AMENDING SECTION 6.3.16(E) OF THE HOLLY HILL LAND USE AND DEVELOPMENT REGULATIONS TO CREATE PARKING REGULATIONS FOR CONVENIENCE STORES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Councilman Byrnes moved to APPROVE the ordinance on first reading with the amendment that tables not be allowed in convenience stores being seconded by Councilman Elliott. The motion CARRIED 4-1 on the following roll call:

Byrnes, yes; Elliott, yes; Mellette, yes; Heyman, yes; Wine, no.

9. CONTINUANCE OF LICENSE REVOCATION - HOLLY HILL JUNK AND SALVAGE - 408 LPGA BLVD.

Acting City Manager Tim Harbuck reported to Council on the matter. He said some progress has been made since this was before Council thirty days ago but in his opinion Council should proceed with setting the hearing to revoke the occupational license of this business. Chief Finn was called forward and he told Council the owner has not moved enough vehicles in the front of this operation to allow for the large trucks to load and unload in the yard without still causing traffic problems on LPGA Blvd.

Council considered the information presented to them and then agreed by consensus to set a public hearing for March 14, 1995 to consider the revocation of this license.

Acting City Manager Harbuck was instructed to prepare the necessary notice and make it clear there will be no further extensions on the order to comply with the improvements he must accomplish to keep his license. Mr. Harbuck said the notice would be hand delivered to the owner's attorney.

10. REQUEST APPROVAL OF LEASE ON MAIN COPY MACHINE

Council discussed the options to lease a copy machine from Delta Business Systems. Three options were presented and discussed.

Councilman Mellette moved to APPROVE Option #2 to lease a new Canon NP6650II copier with 20 bin stapler/sorter at $556 per month including service and drums for 36 months. Councilman Byrnes seconded the motion which CARRIED 5-0 on roll call.

11. SIDEWALK REPLACEMENT

Public Works Manager Milt Hallman asked Council for direction on replacing/repairing sidewalks in the City. He explained the Code of Ordinances says the property owner is responsible for repairs. However, the City has been doing repairs and not billing the owners. Mr. Hallman said he felt he should bring this matter to Council to establish a policy before beginning a repair program.

Mayor Wine asked who would determine what needs to be repaired/replaced. Mr. Hallman said he would be more comfortable with the City Manger making that decision.

Council questioned the Acting City Attorney about who has liability because the City has been sued on two or three recent injury cases. Mr. Simpson said if the City has been sued in court and paid, the City is liable.

Mr. Joe Reichardt, 627 S. Flamingo, told Council he had been in charge of this type of work for the City of Ormond Beach before his retirement and that it is a never ending project. He said he almost always had at least 500 repairs on their list and when they worked them down to 300, then more were added and it is never ending.

Councilman Mellette moved to have the City maintain sidewalks being seconded by Councilman Heyman. After more discussion the motion CARRIED 5-0 on roll call.

Mr. Simpson was directed to draft a sidewalk policy for the City and to amend the ordinance as it is currently written in the Code of Ordinances.

12. PUBLIC WORKS - SOLID WASTE CANS

Public Works Manager Milt Hallman wrote that some people are taking the garbage cans when they move away and enough cans are being taken that it is becoming a problem. He suggested the City hold the security deposit until it has been determined the can has not been removed.

Finance Director Brenda Gubernator said she would work with Mr. Hallman for a couple of months to see how this works. She suggested making the Turn on/off slips in triplicate and work from there and would report back to Council later.

13. DRAINAGE IMPROVEMENTS ON MARLENE DRIVE

Mr. Hallman told Council this is the project they tabled in January when the contractor asked for a change order in the amount of $2,625. He said he could do the work for $800-$900 plus labor.

Councilman Byrnes moved to APPROVE the request for City Crews todo this work being seconded by Councilman Elliott. The motion CARRIED 5-0 on roll call.

14. REORGANIZING OF PUBLIC WORKS STRUCTURE

Councilman Elliott asked Mr. Hallman to go through this with Council . Mr. Hallman said he wants to reorganize the Public Works Department. He said there are some inequities either by transfer or by retiring. He said he has two temporary acting foremen...one is an acting supervisor and the other is a foreman and he is trying to get them where they are all working foremen where they are in charge of a particular division of Public Works. That is mainly what this is all about.

Now, he said, we have transferred people, we've retired people, we've taken Equipment Operator and got them as Acting Foremen. Mr. Hallman said this is just a reorganization that he is requesting Council to consider.

Mayor Wine asked Mr Harbuck if he went over this with Mr. Hallman and if this goes in the Pay Plan. He said he went over it with Mr. Hallman and Mr. Simpson. Mr. Simpson commented that the LIU Union contacted him and they have not had an opportunity to review this proposed plan. The Union wants to review the plan in the event any of the changes would require collective bargaining. They won't know one way or the other without reviewing this. Mr. Simpson said the City obviously has the right to do the restructure but if the Union determines that something has an impact on terms and conditions of employment, that is something that needs to be negotiated. The Union hasn't said there is something, they just haven't had the opportunity to review it so if Council wants to approve this restructuring, they should do so conditioned on if there is the need to negotiate any items with the LIU Union, that be done.

Councilman Heyman said she would make that a motion. Councilman Mellette second the motion.

Mrs. Carolyn Sue Connerly, Chief Union Steward for the Labors International Union came forward and said she was here with Paul Dillon.

Mayor Wine asked Mr. Simpson if he was going to do this with the Union and he responded he talked with Karen Johnson who indicated she would like a chance to review the plan. Mayor Wine said that is why she was wondering if Council needed to discuss this matter here if she is representing the Union.

Mrs. Connerly said she is just here to speak for Paul Dillon on item two where there is a change of one position from an Equipment Operator/Maintenance Worker to Custodian. She said the reason she is here is because his job title before he was listed in this position was Public Works Sanitation/Refuse Front End Loader Operator and he was out on sick leave. When he came back, he was put into the position of Public Works Street Maintenance Worker II and then he was given a demotion and it cut his pay 9.3%. He will be with the City for 30 years November 1, 1995 and his demotion was not in the Pay Plan when it was enacted and put in use in 1993. It was November 26, 1992 and in this position being asked for in the restructuring would cut his pay for another 15%. We feel this is quite a cut for a man who has been with the City for 30 years so they are asking Council not to do this. She said it seems if further cuts were going to be made, the City would have done it at the time when they gave him the demotion. They did not and we feel this is quite a cut for a person to take who is getting ready to retire.

Mayor Wine said at this time, the Council does not get involved with Personnel. She said that should be addressed to the City Manager and that should be taken up with him because he is in charge of Personnel. Mrs. Connerly agreed but said in this item before the Council tonight, it specifically states that his pay is going to be cut 15%...another 15%. Mayor Wine said no names were spelled out in the memo.

Councilman Byrnes said the information is on page 14-2. He then asked Mr. Simpson if the policy passed earlier just set maximum limits for reductions and could the City Manager look at this case and say it is not fair to cut by the full 15%, could he over-ride that decision. Mr. Simpson said he would probably need to look at it in light of the whole plan but just to give an answer to Mr. Byrnes, Mr. Simpson said upon review of the section on Involuntary Demotions then he read: "Involuntary Demotions **shall**"..(which is mandatory)"include a salary adjustment to the new pay range or a reduction of 15% of gross wages, whichever is the lesser amount." Mr. Simpson said he did not see room in that language for a discretion on the part of the City Manager without looking at the rest of the Pay Plan. He said this is what Councilman Mellette was referring to earlier.

Councilman Mellette said when you take a person who has worked for the City for 30 years and we are cutting his pay 24%. He said that is quite a cut for somebody who has worked for the City that long. Mr. Simpson said he would have to go back and look at the original plan before we adopted this but he thought it was a lesser cut than what was under the original plan. Mayor Wine said it is. Mr. Simpson said the original plan said an employee would be reduced down to at least the top of the pay grade and this amendment puts a cap on it so he didn't think any discretion was in the other plan. He said that may be something Council would like to give to the City Manager.

Mayor Wine said in her opinion, the Council should not address individual personnel problems. She said it should go to the City Manager or Department Head and if they need to call in the City Attorney, let them work it out.

Councilman Byrnes said that is why he asked the question in a general sense because if Council does not give the City Manager that discretion, then maybe Council needs to re-address that other item on the agenda because as the Attorney said the word "shall" is pretty strong. Mr. Simpson said it is mandatory and he thought the other language before that is similar but that he would have to look at it. He said the Council could definitely adopt something but it would have to go back to the unions again because it deals with pay but Council could adopt something to allow the City Manager the discretion not to reduce the pay if that is what Council wants to do.

Councilman Byrnes said until that process occurs, there would be no cut. Mr. Simpson said we would be operating under what Council adopted. Mayor Wine said heretofore any City Manager has the discretion and that is what has happened before and they were the one to handle personnel. She said she did not want to get involved in personnel. Mr. Byrnes said he does not want to get involved in individual cases but he wants to make sure the City Manager has the latitude to take care of whatever individual cases he needs to take care of.

Mr. Simpson said Council may want to revisit this issue and he will have to go back and look at the last language, the prior one. It was treated, the latitude was different whether it was voluntary or involuntary. Mr. Byrnes agreed and Mr. Simpson said maybe Council would want to incorporate more of that language into this one. Councilman Byrnes said this case is definitely an involuntary demotion so the point could be made whether the previous cut counts against the 15% or not. Mayor Wine said that is what she thought about so that is why she thinks it should be left up to the City Manager to work out. They may use that as part of it so why complicate something? Councilman Byrnes said as long as we don't get upset with the decision of the City Manager, that is fine.

Mrs. Connerly said what they had in mind is the fact he (Dillon) has been in the job since 1992 and he has been doing a good job and getting good evaluations. Mayor Wine said she understands that but Council is not in the Personnel business. Mrs. Connerly said she understands that but until now they have not had anything to say about cutting his pay and he is only a few months away from retirement so it seems after 30 years with the City, they have worked with other City employees ... Mayor Wine said the consensus is to leave it up to the City Manager. Mrs. Connerly thanked Council.

Mr. Simpson said to the extent that language needs to be changed in the Pay Plan, should that be brought back to Council to give the City Manager the discretion to do that. Some members of Council said it should. Councilman Mellette said it should because as it reads now, he has no discretion. Councilman Byrnes said it would be good to make sure that discretion is in place before any changes in pay are made. He said he has no problems adjustments in the...

Mayor Wine said we have a motion and second and requested the roll call which was made as follows:

Heyman, yes; Mellette, yes; Byrnes, "I want to be sure that my comments appear in the record about the changes in pay not being made until the adjustments are made and with that I'll vote yes"; Elliott, yes; Wine, yes.

15. RESOLUTION NO. 11 - SUPPORTING HALIFAX/INDIAN RIVER SPRING CLEANING DAY

Assistant City Attorney Simpson read:

RESOLUTION 95-R-11
A RESOLUTION EXPRESSING SUPPORT OF THE CITY OF HOLLY HILL, VOLUSIA COUNTY, FLORIDA, FOR THE HALIFAX AND INDIAN RIVER TASK FORCE'S HALIFAX AND INDIAN RIVER SPRING CLEANING DAY IN CONJUNCTION WITH THE "GREAT FLORIDA CLEANUP", SET FOR APRIL 1, 1995; SETTING FORTH AN EFFECTIVE DATE.

Councilman Heyman moved to ADOPT the resolution being seconded by Councilman Byrnes. The motion CARRIED 5-0 on the following roll call:

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

16. COMMUNICATIONS FROM ACTING CITY MANAGER

A. Report on Youth Center - Mr. Harbuck called on Sgt. Harold Hatcher for a report. Sgt. Hatcher told Council the work would be completed in about two Saturdays and he would like to have a grand opening on March 25, 1995. He asked Council if they would back the Center by providing some beautification around the grounds and have Public Works do some painting and patching some pavement as well as installing curb stops. He said they do not have any money to do anymore work. Sgt. Hatcher also said the roof is leaking but they are working with someone on getting that fixed.

Council discussed the staff requirements to keep the Center opened from 3-6 Monday through Thursday afternoons, 3-10 p.m. on Friday and noon to 10 p.m. on Saturday. Councilman Byrnes said he had discussion with Mr. Hester about having someone from Recreation spending time in the building. He said the building is 99% ready other than the floor and a telephone. The Acting City Manager was instructed to look into staffing. Councilmen Heyman, Byrnes and Mellette said they wanted to back the Youth Center.

B. Next City Newsletter - Mr. Harbuck said the next letter is due out on April 1, 1995. He said it would be appropriate to feature the Youth Center. Council agreed this was a good idea.

C. New Fire Chief Appointed - Mr. Harbuck announced he had appointed Joe Forte to fill the Fire Chief vacancy. Council agreed with this selection.

17. COMMUNICATIONS FROM CITY ATTORNEY

Mr. Simpson reported the project for the Tenth Street Crossing has been turned over to the County for design review and everything is in place except the Railroad is not cooperating and giving ... We are supposed to have an agreement with them as to who maintains the traffic stops when they give the City permission to go across their right of way. Mr. Simpson said he has left messages with them (Railroad) but they haven't returned the calls. He said he hoped he would have more to report at the next Council meeting on what course of action the City will take, anywhere from telling the Railroad what the City is going to do (We don't need your permission.) to schedule your trains around our construction schedule. Mr. Simpson said that may be what the City will choose to do or we may have to take some type of court action. However, he said he hoped to have a better report for the next meeting.

Mayor Wine said when I-95 opens up citizens are going to have a hard time getting out 11th Street. She said this needs to be expedited. Councilman Mellette said this has dragged on long enough.

18. COMMUNICATIONS FROM MAYOR AND CITY COUNCIL

Councilman Byrnes asked if a motion was needed for "the stuff we talked about with the Youth Center - needing a person there or directing the Recreation Department that this is one our priorities". Mr. Simpson said it would be more appropriate for Mr. Harbuck to bring a proposal back to Council for approval incorporating what has been discussed and make it an agenda item.

Mayor Wine mentioned that a roof was going to be donated to repair the Youth Center roof.

Mayor Wine reminded everyone about the Goals and Objectives meeting to be held the following evening at 5:30 p.m. at the Adams Mark Hotel.

19. ADJOURNMENT

There was no further business to come before the Council so the meeting was adjourned at approximately 11:18 P. M.

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Mayor

ATTEST:

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Acting City Manager