

MINUTES

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

April 10, 2007

1. CALL TO ORDER

A. Roll Call

Mayor Via called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 7:03 p.m. Attending with Mayor Via were Commissioners John Penny, Gilles Blais, Mark Reed and Traci A. Anderson.

Also attending were City Manager Joe Forte, Assistant City Attorney Scott Simpson, Public Safety Director Don Shinnamon, Finance Director Kurt Swartzlander, Public Works Director/City Engineer Chris Hurst, Community Development Director/City Planner Doug Gutierrez, Building Official Tim Harbuck, Community Redevelopment Coordinator Marsha Radulovich, and City Clerk Valerie Manning.

B. Invocation

Mayor Via delivered the invocation.

C. Pledge of Allegiance to the Flag

2. PRESENTATIONS & PROCLAMATIONS

❖ Proclamation for Water Conservation Month

Mayor Via read the proclamation.

❖ Presentation of poster and writing winners

Mayor Via asked if Deborah Green, WAV, would come forward and bring up the students to receive their presentations.

Ms. Green introduced the following students:

1. Sara Doak – Writing Contest
2. Michalla Esposito – Writing Contest
3. Sherome Thomas – Poster Contest

Ms. Doak and Ms. Esposito had an opportunity to read their winning writing entries to the Mayor and Commission.

Mayor Via presented the girls with a Certificate in honor of their winnings.

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3. CONSENT AGENDA

1. Minutes from the Community Redevelopment Agency meeting – March 27, 2007
2. Minutes from the Regular City Commission meeting – March 27, 2007
3. **Report of Payments over \$5,000**
 - ❖ Worker's Compensation Settlement – \$10,000

Commissioner Reed pulled Item #2 from the Consent Agenda, the Regular Minutes from the Commission meeting for discussion.

*Commissioner Reed moved **APPROVAL** of the items on the consent agenda, seconded by Commissioner Penny.*

The motion **CARRIED** 5-0 on roll call: Reed – Yes, Penny – Yes, Blais – Yes, Anderson – Yes, Mayor Via – Yes.

Commissioner Reed wanted to make a correction to page 7, of the minutes where Mr. Forte was talking about his situation with the non-conforming use of the property discussed. Commissioner Reed would like to have the following taken out of the minutes (~~*There was consensus from the City Commission to allow Mr. Forte to move forward and allow Mr. DeAngelo to move his towing company at the Center Street location.*~~) because Mr. Forte wasn't looking for a consensus from the Commission to move forward, just for information.

*Commissioner Reed asked to move for **APPROVAL** the correction to be made in the minutes as described above, seconded by Commissioner Penny.*

The motion **CARRIED** 5-0 on roll call: Reed – Yes, Penny – Yes, Blais – Yes, Anderson – Yes, Mayor Via – Yes.

4. AUDIENCE PARTICIPATION

Regarding items not on the agenda.

Jim Legary, 342 Burleigh Avenue, commended the Commission for withdrawing the sign-up sheets. He believes they did well and thanked the Commission.

Steve Smith, 1410 Riverside Drive, mentioned that at the end of the last City Commission meeting when Mr. Forte showed a poster to the Commissioners and the audience about moving the wrecker business to Center Street, is the public allowed to talk when something like that is going on?

Mayor Via stated that was something that the City Manager wanted to discuss with the Commission. There was no decision to be made on that. If Mr. Smith has a concern about it, he would suggest he talk to Mr. Forte about it because he is the one making that decision.

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Mr. Smith stated Mr. Forte said it was an administrative decision and they were going to move a wrecker business over there to Frank's Junk Yard on Center Street. "Mr. Forte, did that occur?"

Mr. Forte stated, in the process.

Mr. Smith stated without being able to speak...is the City Manager's comments at the end of the meeting, are they open to the public that are here? Are they allowed to participate in something like that?

Mayor Via stated, no.

Mr. Smith stated this is the first time he has been able to talk about it since the end of the last meeting and mentioned that he went to Mr. Forte's office several times and wasn't able to speak with him so he thought he would come back to the Commission tonight. Mr. Smith informed the Commission that he was rather upset about the whole thing. Mr. Smith shared his concerns about that area and it being next to the school zone. Mr. Smith feels that the Mayor has not been recognizing people that want to speak. That particular issue from the last meeting should have been an agenda item; it should have gone through due-process and should not have been allowed to occur.

Kent Benkin, 1491 Center Street, shared his concerns about the junk yards. Mr. Benkin feels the citizens should have been able to speak about that issue. There are people along Center Street that have strong feelings about this. They didn't mind a junk yard being there; junk yards were there before most of us were there and now they have Star Towing. There are people who want to voice their opinion and this happened so fast that they didn't have a clue it was going on.

Marge Benkin, 1491 Center Street, had similar concerns as her husband. They have lived on Center Street for 35 years and they were always given to understand that the junk yards would be allowed to remain but not expand and if it was sold to another person that was keeping it as a junk yard, that would be allowed but if it were to be developed in any other way, it would have to go residential. They had no idea that this was being approved until the people started backing in and out with the wreckers and *Gary's Automotive* had fence posts put up blocking his customers out. Mrs. Benkin feels that the things that are going on down there isn't right and she doesn't think it adheres to what they had been promised for 35 years and she doesn't think it's good for the area and she doesn't think it's good to have it between the schools.

Brad Tolmin, 1336 Riverside Drive, shared his concerns about expanding the junk yards. He didn't move to Holly Hill for the City to expand an area right near a school or right near the gateway. He doesn't believe that staff made the right decision.

Lou Schmitt, 1000 Walker Street, was in favor of staff's decision. Mr. Schmitt mentioned that he lives behind the fence of the junk yard in Holly Forest Estates and he has heard no problems. Just recently they had a Homeowners Association meeting and it wasn't even brought up.

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Mike Hull, 12 Stuart Drive, shared his concerns about the junk yard and Mr. Schmitt's comments.

Mike Gleason, 820 Riverside Drive, stated when Mr. Smith mentioned to him what was going on near their school zones, he decided to go over and look at the situation himself, and frankly, he doesn't have any kids but he does know if the City wants to attract the kind of people they are looking for to come into this community, their looking for school zones, safe places, places that do not have that type of business expanding over in that area. Mr. Gleason shared his concerns that the City continues to put in non-conforming businesses into areas that simply the citizens thought they would be rid of here soon, in their town.

Ed Bond, 1572 Hammock Drive, stated if anybody goes over there when the schools are letting out, all the kids running up and down those sidewalks, is no place for tow trucks; absolutely not.

Mayor Via asked Mr. Forte to readdress the issue so that the public here understands what his question was to the Commission and what the Commission's response was.

Mr. Forte stated it really wasn't a question, more of a predicament that he was in. When a manager makes an administrative decision, he does the best he can with them; they are not always perfect but there are mechanisms to question those and anyone of the folks that appeared this evening in opposition to that decision, can request to appeal that decision to the Planning and Zoning Board; they are the City's Board of Adjustments. They can go to that Board and appeal the decision that Mr. Forte made and then that body would then determine if Mr. Forte's decision was proper or not. That could be a method used under this circumstance. The Board of Planning and Appeals will either uphold his decision or over rule his decision. Mr. Forte mentioned that he is still not saying whether it was right or wrong.

Mayor Via informed the citizens that the City *did not* expand the junk yard and asked if Mr. Forte could explain what was asked as far as the non-conforming use; what the guy is doing on that end.

Mr. Forte stated he was removing *Gary's Automotive* and whatever the other business to the north of the property was and operating the tow truck company out of that location. A non-conforming property is a property that is operating in opposition to what its zoning is. If the use is abandoned it can never be re-established as that non-conforming use but if somebody comes in and they want to down grade, for example, the operation, that certainly wouldn't be expanding the non-conforming use, it would be in a way, reducing the non-conforming use. So, they can change it to something other than residential.

Attorney Simpson stated if the downsizing, if it was viewed as something getting closer to compliance, that may be something that would be permitted. From his understanding from the last meeting, is the type of use was very similar, there were tow truck operations going on there, so it wasn't a true change of use in the City Manager's opinion and that the overall improvements to the area, we, obviously can't stop the junk yard there and in a junk yard operation you do have towing; that's a natural. In an automotive operation they do have towing. Attorney Simpson mentioned that was his summation of what Mr. Forte said at the last meeting.

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It wasn't like they went from a junk yard to a nuclear power plant; it wasn't that extreme. It was within the same realm of operations. Attorney Simpson stated that was his understanding of Mr. Forte's decision from the last meeting.

Mayor Via asked if Mr. Forte could explain his dilemma to the citizens.

Mr. Forte stated was that the condition of *Gary's Automotive* and the other business to the north were in pretty poor shape and the current business owner was cleaning the property up and he was going to make the appearance of the property better by removing *Gary's Automotive* and the other business and then putting his tow company in there; he was going to fence the property off, put some landscaping and parking in there and once that's done, the tow trucks will actually drive onto and into the yard of the property; the front area will just be customer parking. The operations that are occurring in the street...that business that operated from the street in the right-of-way for many years, the City has written them up a numerous of times and this current owner was trying to do the best he can to bring the operation behind the fence, actually onto the property. It is definitely an improvement over the operation that was there before.

Doug Gutierrez, Community Development Director/City Planner, gave a brief summary when it comes to the City's obligation to non-conforming properties in conjunction with the City's Comprehensive Land Use Plan.

Attorney Simpson reminded the Commission that this decision isn't before them. Mr. Forte made an administrative decision and any person has 30-days, from what's called the rendition of the order.

Commissioner Reed stated so these nine people that have come up here concerned about this, need to go to Planning and Appeals.

Attorney Simpson stated they probably need to go to the City Clerk, and in Section 82-291 of the Code of Ordinances, and that talks about the appeal process and looking at it, the Planning Board makes a decision. They don't make a recommendation to the Commission. It will never come back to the Commission for a decision any way. This is something that the Board will make a decision as to whether to uphold Mr. Forte's decision or not, if somebody makes that appeal. They have 30-days from the rendition of the order. What that means is from the time that Mr. Forte signs and put it in writing that they were authorized to do that with the business, they have 30-days; rendition of the order is putting it in writing.

Mr. Forte stated he hasn't put it in writing yet but he will do that tomorrow.

Attorney Simpson stated what he would tell the citizens to do is *assume* that it's 30-days from the day Mr. Forte gave verbal authorization just because the property owner will probably retain an attorney and they don't want to give them a procedural argument that if they waited 30-days from when it went into writing *but* they had a verbal representation and maybe a letter...

Commissioner Reed stated that verbal representation was probably two weeks ago. They really only have two weeks to make this appeal.

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Attorney Simpson stated, right. If they want to appeal it, he would...obviously, there's an argument; rendition of the order in writing; when did you put it in writing? But if there was any type of letter, like a building permit was issued for them to do any work, well that's in writing. Is that a rendition of order? The safest thing to do is to eliminate that potential procedural argument from the property owner is to go whenever Mr. Forte gave his verbal authorization – the day after the last Commission meeting and assume that's when their 30-days started, that's the safest thing.

Mr. Forte suggested that if it's the Commissioners goal to eliminate non-conforming uses then they should set in place those rules to start establishing procedures.

Mayor Via asked if the Commission would like to bring that to a future workshop and there was consensus amongst them to do that.

5. **PUBLIC HEARING** – SECOND READING OF ORDINANCE 2794, LAND DEVELOPMENT REGULATIONS (LDR) AMENDMENT – APPLICANT: CITY OF HOLLY HILL, ADMINISTRATIVE REQUEST

Attorney Simpson read by short title:

ORDINANCE NO. 2794

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE CONSOLIDATED LAND DEVELOPMENT REGULATIONS, CHAPTER 114. ZONING REGULATIONS, AMENDING THE MINIMUM DIMENSION REQUIREMENTS FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS (RPUD); PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Via opened public participation.

Jim Legary, 342 Burleigh Avenue, is opposed to the Land Development Regulations (LDR) amendment. Mr. Legary mentioned that this is one of the things that the City has done in Holly Hill is make too many adjustments too rapidly. He is opposed because of the precedent. He thinks it would be very easy for a number of people to assemble two acres to do whatever they want if they get the Commissions blessing.

Mr. Forte mentioned that it might be appropriate to have the staff report first because there are some people here that don't know the background of this item.

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Doug Gutierrez, Community Development Director/City Planner, gave a summary of the LDR and the reasoning for going from a five acre parcel to two acre parcels. Mr. Gutierrez briefly went over PUD requirements and how they are used and what they do which is give the City a little bit more control and the City creates the zoning; the City can set the setbacks, the uses, can dictate the building height, architectural style, amenities, all in a development agreement.

Steve Smith, 1410 Riverside Drive, shared his concerns about the Mayor coming to the Planning and Appeals meeting the other evening and pitching his approval to the Board about this item. Mr. Smith doesn't think it's appropriate for the Mayor to come there and advise the Board.

Mike Hull, 12 Stuart Drive, was concerned about the density bonuses and spoke briefly about Marina Grande and its height and the garage that is there. Mr. Hull doesn't want to see something like that continue north along Riverside Drive. Mr. Hull has been here for 43 years and most of the residents in single-family homes would like to see it remain a small family oriented town.

Mike Gleason, 820 Riverside Drive, mentioned that he has ½ of two acres on the river and it's not his intent, necessarily to want to get rid of that type of piece of property, but his concern is that he might have two neighbors down the street that do and then he might as well jump on board and so does the next person and then they do not have the river front drive that they now have, they will have high-rises and condos. Mr. Gleason is opposed to this idea.

Dan Daugherty, 1682 Riverside Drive, he remembers the issues that came forward when Steve Smith wanted to come forward and put up a gazebo and block the view of the river.

Brad Tolmin, 1336 Riverside Drive, fortunately he is happy. Holly Hill has not been that developed yet because he was fortunate enough last year to move to Riverside Drive and he, himself, lived in Daytona Beach Shores in one of those great big condos. Riverside Drive is a beautiful place, one of the most beautiful places the City has. Mr. Tolmin is opposed to this.

Mayor Via closed public participation.

*Commissioner Penny made a motion to **APPROVE** the Second Reading of Ordinance 2794, seconded by Commissioner Blais.*

Commissioner Penny spoke briefly about the non-conforming uses in the City and he thinks the reason why they have so many in the City is that they failed to plan. This tool is a planning tool. All of these changes that they are talking about tonight, gives control to the City, and it gives more control to the Commission. Any change that comes before the Commission, it's not a rubber stamp. Commissioner Penny informed the Commissioners that he takes each one of these issues and each one of these agenda items very seriously and study it and consult with staff. He looks at this as a huge tool for the City and he supports this as a tool for the City.

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Commissioner Blais stated the City doesn't want to give the citizens their dreams away. With a PUD they will be made aware through the Commissioners what's going on in the City. The City wants the citizens input and he is not going to give away their inputs to any developers. "I am your voice."

Commissioner Anderson stated she hasn't really changed her opinion on this since the last meeting. Commissioner Anderson doesn't see anything wrong with five acre parcels; she doesn't think they should go to the two acre parcels. Commissioner Anderson spoke briefly about the Mayor attending the Planning and Appeals meeting the other evening and the Mayor saying that the City Commission was in favor of this amendment. Commissioner Anderson informed the Mayor that she was not in favor before this and she doesn't think, speaking for herself, at these meetings, she would rather speak for herself than have someone speak for her. She has not changed her view on this. She wants to go with what the citizens have called and spoke to her about and that is they do not want it changed. What happened 50 years ago has nothing to do with what's happening today or what's going to happen in another 20 years. Things change and things happen and they always will. She thinks at this point they are going to listen to what the citizens want and just do what the citizens want. Whether they are looking to the future or not, a lot of things change; things change every day but at this particular point they need to do what they are here for.

Commissioner Reed stated this is an administrative request brought about by a developers request for a zoning change. They know exactly why this is in front of them now. That man asked for a zoning change and he was summarily dismissed 5-0 with the Mayor and all the rest of the Commissioners being unanimous and immediately the guy is reached out to, to bring it back as a PUD, now the Commission has to change this rule to accommodate one guy's PUD. This is not the way to do business. The guy asked for a zoning change that none of the Commissioners approved but now they are giving him a *tool*, Commissioner Penny, to go ahead and get what he wants. Commissioner Reed stated he guarantees the psychology that works, when you see the pretty picture you go ahead and buy the product; advertisers use it everyday. This Commission has a long standing track record of approving those pretty pictures, whether the citizens want it or not. This is for one developer to get his two acres of town homes on Center Avenue that he was summarily defeated on his first request and now the Commission is going to try to give him a little back door to get in there. Commissioner Reed stated he thinks it's wrong; he doesn't think it should have been in front of the Commission the first time. He finds it reprehensible that the Commission is doing this, this way. There is nobody on staff, in this administration, that saw a dire need for this two acres, this reduction, before this one developer came forward. It hasn't even come up before that one guy came here a month ago. It's not the way that you do business.

Commissioner Penny stated the decisions he makes are not for any one single applicant. He is trying to have foresight in trying to plan for the future of this City. He doesn't want to be perceived as not listening to the people. He has had five different conversations with five different citizens in this community and they share the same opinion as he does. They are not here tonight because they trust when he tells them his opinion on something, that he keeps his word. He has supported this from the beginning and yes, this was his idea. Staff didn't bring this to the Commission. He believes he was the one who brought the recommendation, got

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consensus from the Commission to direct staff to bring this back as an ordinance. Maybe staff had never thought of this before; maybe this had never come up before. He does not want to be accused of making a decision for one applicant. He was on record at their last Commission meeting not to continue a non-conforming use. He continually talks about corrections that they have to make and this is one tool that the City will have to be able to make corrections. They have all, in their workshops, addressed that they are going to be faced with infill in the City. They can't grow. How are they going to infill? This is a tool to plan how they will infill in the future.

Mayor Via stated they became a City 105 years ago; 1986 – 20 years ago, the State required the City to come forward with a Comprehensive Use Plan that's a blueprint of the City. From 1986 until only a couple of years ago, they had a rent-a-planner. Basically, the City wasn't doing enough changes or enough things with planning to require a full-time planner and so they had the VCOG have a part-time planner with the City. Prior to 1986 somehow the forefathers of the City gave away the property that goes to *Daytona Beach News-Journal*, they gave away Mason Avenue and all the commercial property along there. Over a period of time, this City could have gone as far West as I-95 and yet there was no planning in the past. The planning in the past was just, as-you-go-meetings and a rent-a-planner and the planner wasn't even here unless there was something on the agenda that he was a part of. Over a period of time, the City had patch work type zoning. When the City was required by the State to bring forward the City's Comprehensive Use Plan (CUP) and applied to the State and they said okay. Now that the City has a full-time planner, there are a lot of anomalies in it; there are things that weren't thought of. He asked to table this item at the last meeting because it was brought to his attention, that yes, they could assembly properties to get two acres along Riverside Drive and attempt to do that. As long as he has been on this Commission, it has been the desire *not* to go and mess with the residential estate type properties along Riverside Drive. Mayor Via mentioned that PUDs are generally put together by the Commission. Mayor Via asked Attorney Simpson a question; under the City's current zoning, if someone wanted to do the townhouses along Riverside Drive, which is the area that people seem to be focusing on, it would require them to come in for a zoning change to the R4-A, is that correct?

Attorney Simpson stated if it wasn't zoned R4-A, yes.

Mayor Via asked but if the City had this two acre RPUD, if they came in to do it, the "no" for the zoning could be the same "no" for the RPUD, is that correct?

Attorney Simpson stated his recollection on why this was here is that there was a lot of discussion when this applicant on Center Street came up to say, "You know if we just had a picture", "If we knew what was going to be there we would feel more comfortable", he remembers that being said several times. Attorney Simpson mentioned that he also knew that he had concerns that when the Commission denied the rezoning, the Commission needs to have substantial competent evidence to deny that. They weren't dealing with a Comprehensive Plan change where he told them before they have their discretion. He thinks one of the problems, at least what he has seen, there may be a reason why its there, but one of the problems he sees is that in the City's Future Land Use Designation is where this Commission has their discretion on development issues, multi-family and single-family are consistent with each other. That's the

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plan that the City has. The Commission has made a decision, maybe not you personally, but this Commission has made a decision, single-family/multi-family are consistent with each other. So, when somebody comes in and says they want to go from R1 to R4, under the City's Comp Plan, that was consistent. If the Commission remembers, they did not have a Comprehensive Plan change. Attorney Simpson mentioned that he was concerned that *if* it was challenged, and it wasn't, would you have had substantial competent evidence to *deny* the rezoning request? That's the big concern he had at that meeting. His suggestion would be to at least look at should the City have two separate land use designations? One, for single-family but one for multi-family; that they aren't consistent with each other.

Mayor Via asked does that go to density; on the units per acre?

Attorney Simpson stated no...it might but not automatically. He guesses multi-family typically does have more units per acre but that's something he has talked to Mr. Gutierrez about and Attorney Simpson thinks that should be looked at because he thinks that creates problems where they are now putting multi-family in the middle of a single-family areas and it puts the Commission and myself in a tough position because he is trying to tell the Commission where is the substantial competent evidence to say "no" here on this rezoning? And that's exactly what happened; the developer came in for an R4 where they wanted to build townhouses but R4 is consistent with the Future Land Use designation that they want to do so the Commission needed substantial competent evidence. Whereas, if they had to come in with a Comp Plan change, the Commission could say, "That's just not the direction we want to go in with this City; that's not *consistent* with the surrounding neighborhood". Those are the kinds of dialog you hear or the basis for saying "no" on a Comp Plan not zoning. So, to answer the Mayor's question, yes, the same grounds are there for denial but it's hard to deny. It's much harder to deny zoning requests when they *don't* come with a simultaneous request for Comp Plan changes. For some reason there appears to be that every time you use PUD you also *assume* its Marina Grande; an RPUD *does not* have to be Marina Grande. There are benefits to the City under a PUD and he thinks all commissions get spoiled by them because they get more input and they get to see what's going to be there; they have an idea what's going to be there when it's zoned and that's really why it came back. There was a lot of discussion here about..."If we just *knew* what this was going to look like *maybe* the surrounding neighbors would feel more comfortable about this" and as he told the Commissioners during that meeting, he doesn't care what they put up there, they don't have to build it; during a straight rezoning, they *don't* have to build that; they just have to *comply* with the City's zoning regulations. So, *assume* that there's going to be a structure all the way to the setback line and it's going to be as tall as our Code allows, all around that property to the maximum coverage allowed, and that's what the Commission has to do when they do a *straight* rezoning; they *don't* have to do that with an RPUD. He thinks a lot of concerns are heard from the public could be addressed and Mr. Gutierrez and myself have talked about creating a new Future Land Use designation for multi-family that, personally, in his opinion, he doesn't think multi-family should be in single-family; it should be a *transitional* area between a single-family/multi-family, low-impact commercial and so that's something, in his opinion, staff should look into but there may be very valid planning reasons why it's there.

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Mayor Via mentioned that he sees the RPUD as more protection not less protection. They get to see what happens. The Commission will always have that final control and his desire is to keep Riverside Drive the way that it is.

The motion **CARRIED** 3-2 on roll call: Penny – Yes, Blais – Yes, Anderson – No, Reed – No Mayor Via – Yes

6. **VARIANCE REQUEST – 2 LOTS ON ANNISTON AVENUE – APPLICANT: ROBERT JENKINS**

Mr. Gutierrez gave a brief presentation pertaining to the variance request for the two lots on Anniston Avenue. Mr. Gutierrez mentioned that this is an “after the fact” variance request by Mr. Jenkins. This is to permit a reduction in the lot depth from 100 feet to 93.65 feet in an R3 zoning district.

Robert Jenkins & Shawn Hurley, the applicant, answered questions of the Commission.

Commissioner Anderson asked these two homes, they are going to exit onto...the homes are going to face Flomich or Anniston?

Mr. Jenkins stated, Anniston Avenue.

Commissioner Anderson stated that she had spoken to a few people in the neighborhood and the gentleman directly across, that has that duplex house, was very much in favor of this. Has Mr. Jenkins thought about doing a duplex on that property?

Mr. Jenkins stated they did think about that but they also thought that they had to change the zoning but it came up that they could do two houses so that’s what they were going to do instead of the duplex.

*Commissioner Reed made a motion to **APPROVE** the variance request by Robert Jenkins for two lots on Anniston Avenue, seconded by Commissioner Anderson.*

The motion **CARRIED** 5-0 on roll call: Reed – Yes, Anderson – Yes, Penny – Yes, Blais – Yes Mayor Via – Yes

7. FIRST READING OF ORDINANCE 2796, REGULATING NON-CONFORMITIES AS IT RELATES TO EMINENT DOMAIN

Attorney Simpson read by short title:

ORDINANCE NO. 2796

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA; ALLOWING CERTAIN NON-CONFORMING STRUCTURES TO BE REPAIRED OR REBUILT IN THE SAME LOCATION IF THE NON-CONFORMITY IS THE SOLE RESULT OF A EMINENT DOMAIN OF PROPERTY; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Attorney Simpson stated this originated at the request of the County. The County is involved with eminent domain action over where Walgreens is on Nova Road where they are widening LPGA Boulevard and an issue was raised about the ability of Walgreens, in the event the taking occurred, that they may have a non-conformity and they would not be able to rebuild the structure back exactly the way it was and it was potentially costing the County, through this eminent domain process, hundreds of thousands of dollars, is what he was being told. Attorney Simpson mentioned that he spoke with the County Attorney and he thinks they spoke to staff first before they contacted him. Attorney Simpson told the County Attorney that he would look into it and talk to Mr. Forte and Mr. Gutierrez and Attorney Simpson said the only thing he could come up with is, obviously this is a logical reason for granting a variance; this is really, in his opinion why the City has variances. The eminent domain action is still a process that you don't know what the outcome is going to be. Attorney Simpson thought that the City could probably put something in, that almost in essence, gives someone the right to rebuild if eminent domain is the reason why there's non-conformity. When he read the City's non-conforming regulations, the City has talked about this issue, staff has addressed the Code, but not this specific issue. They address a non-conforming lot created by eminent domain and they have also addressed the moving of a structure because of eminent domain and there are very similar provisions that they grant relief from the City's non-conforming provisions. This is an issue that he thinks is going to help the County; they requested it, he put some conditions in there that he thought addressed and they can add to it. Attorney Simpson went over the ordinance with the Commission at this time.

*Commissioner Reed made a motion to **APPROVE** the First Reading of Ordinance 2796, seconded by Commissioner Blais.*

Mayor Via opened public participation. No one spoke.

The motion **CARRIED** 5-0 on roll call: Reed – Yes, Blais – Yes, Anderson – Yes, Penny – Yes
Mayor Via – Yes

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8. FIRST READING OF ORDINANCE 2797, AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS (LDR) – PERMITTED USES AND STRUCTURES – APPLICANT: ADMINISTRATIVE

Attorney Simpson read by short title:

ORDINANCE NO. 2797

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE CONSOLIDATED LAND DEVELOPMENT REGULATIONS, CHAPTER 114. ZONING REGULATIONS, AMENDING THE PERMITTED USES IN THE (I-2) HEAVY INDUSTRIAL ZONING DISTRICT TO PERMIT TOWING/WRECKER SERVICES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mr. Gutierrez gave a brief staff presentation pertaining to the LDR for permitted uses and structures.

*Commissioner Blais made a motion to **APPROVE** the First Reading of Ordinance 2797, seconded by Commissioner Reed.*

Mayor Via opened public participation. No one spoke.

The motion **CARRIED** 5-0 on roll call: Blais – Yes, Reed – Yes, Anderson – Yes, Penny – Yes
Mayor Via – Yes

9. FIRST READING OF ORDINANCE 2798, SURPLUS REAL PROPERTY

Attorney Simpson read by short title:

ORDINANCE NO. 2798

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING SECTION 30-73 (SURPLUS PERSONAL PROPERTY) TO INCLUDE REAL PROPERTY AND TO ALLOW THE CITY COMMISSION TO APPROVE THE SALE OR TRANSFER OF SURPLUS PROPERTY, REGARDLESS OF VALUE, WITHOUT COMPETITIVE BIDDING WHEN DETERMINED TO BE IN THE BEST INTEREST OF THE CITY; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mr. Forte mentioned that this is the ordinance that they talked about at the last meeting which is going to give the Commission the ability to sell real estate property, normally they would do it by public bid, but if it's for the benefit of the City, for example what the City is trying to work out with Mid Florida Housing Partnership, Inc., with the two properties on Jasmine, the Commission can go ahead and use this method.

Mayor Via opened public participation.

Mike Hull, 12 Stuart Drive, asked if they could explain to him what real surplus property is and when would it ever be in the best interest of the City and how?

Mr. Forte stated the surplus of real property is real estate land.

Attorney Simpson stated land that the City doesn't need anymore.

Ed Bond, 1572 Hammock Drive, asked what would happen about a sweet heart deal, would this still have to come in front of the Commission and would the public have input on whether or not that certain developer or whoever it would be to do that?

Attorney Simpson stated, yes. It comes back before this Commission for approval.

Jim Legary, 342 Burleigh Avenue, his understanding of these homes that Mid Florida Housing is going to construct, is something in the neighborhood of \$189,000. If he was just judging with his appraisers eye, the immediate vicinity, he would say that this is probably \$20,000 to \$25,000 higher than the surrounding community. It seems, once again, that the locals will be taking just a little bit of a slight. Do they think that's right?

MINUTES

Mr. Forte stated in the SHIP program that's provided by the County, which provides downpayment assistance, they have capped it at \$189,000. That's the highest that an applicant can purchase a house for to receive up to \$40,000 in downpayment assistance. That \$189,000 comes from the maximum that is established through the SHIP program.

Mr. Legary stated what he is alluding to is that it's going to make the rest of the area kind of tacky.

Mr. Forte stated the three new houses that are going to be there are going to be new quality homes at \$189,000 in an area that has homes that are probably less.

Mr. Legary stated that's exactly what he is talking about.

Commissioner Reed stated maybe it will inspire somebody...if they have a new house going in next door to them, maybe they will fix their house up a little bit too.

Mayor Via closed public participation.

Commissioner Penny asked Attorney Simpson if there is any way to make this a special Resolution that would require two readings so that if someone missed it on an agenda that they can come back for the second reading?

Attorney Simpson stated they can add a provision that it will be done by Resolution but it has to be adopted in compliance with the Ordinance adoption procedure that would require two readings and public notification.

Commissioner Penny stated he thinks that would make the community a little bit happier.

Commissioner Penny made an amendment that the approval of a bidding process shall be done by Resolution which shall be adopted in accordance with the ordinance adoption procedure under State Law, seconded by Commissioner Anderson.

The motion **CARRIED** 5-0 on roll call: Penny – Yes, Anderson – Yes, Reed – Yes, Blais – Yes
Mayor Via – Yes

*Commissioner Anderson made a motion to **APPROVE** the First Reading of Ordinance 2798, seconded by Commissioner Blais.*

The motion **CARRIED** 5-0 on roll call: Anderson – Yes, Blais – Yes, Penny – Yes, Reed – Yes
Mayor Via – Yes

10. RESOLUTION 2007-R-13, PROPERTY TAX REFORM

Attorney Simpson read by short title:

RESOLUTION 2007-R-13

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, URGING THE STATE LEGISLATURE TO RECONSIDER THE METHODS USED TO DETERMINE CHANGES IN THE STATE'S TAX CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Blais made a motion to **APPROVE** Resolution 2007-R-13, seconded by Commissioner Penny.*

The motion **CARRIED** 5-0 on roll call: Blais – Yes, Penny – Yes, Anderson – Yes, Reed – Yes Mayor Via – Yes

11. RESOLUTION 2007-R-14, HOLLY STREET

Attorney Simpson read by short title:

RESOLUTION 2007-R-14

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, APPROVING THE AGREEMENT WITH VOLUSIA COUNTY FOR THE TRANSFER JURISDICTION OF PORTIONS OF HOLLY STREET FROM VOLUSIA COUNTY TO THE CITY OF HOLLY HILL AND AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE SAID AGREEMENT; APPROVING AN AGREEMENT WITH SEVERINO ENTERPRISES, INC. PROVIDING FOR THE MAINTENANCE RESPONSIBILITY OF THOSE PORTIONS OF HOLLY STREET BEING TRANSFERRED UNDER THE CITY'S JURISDICTION AND AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE SAID AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

MINUTES

*Commissioner Reed made a motion to **APPROVE** Resolution 2007-R-14, seconded by Commissioner Blais.*

The motion **CARRIED** 5-0 on roll call: Reed – Yes, Blais – Yes, Penny – Yes, Anderson – Yes
Mayor Via – Yes

12. COMMITTEE REPORTS

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

Mayor Via mentioned that he attend the Volusia County Smart Growth Committee meeting the other day – they are about ready to get Map A done.

13. COMMUNICATIONS

A. City Manager

Mr. Forte mentioned that Chief Shinnamon was successful in passing his Firefighter 1 State Exam recently.

B. City Attorney

None.

C. Mayor & Commissioners

Commissioner Anderson mentioned that The Mirage Group is going to have a meeting with the citizens on Tuesday, April 17th at 7:00 p.m. over at Sica Hall.

Commissioner Reed mentioned that he wants to support Mr. Forte on the difficulty of these administrative changes he has on Center Avenue. Commissioner Reed mentioned while he may have supported it the last time, he doesn't think he had all the information. He doesn't want Mr. Forte to think that he is not supporting him on this kind of stuff; he knows it's very difficult. He thinks if Mr. Forte gets in a difficult spot, Mr. Forte maybe should bring it to the Commission instead of having to do it himself and have the citizens upset with him, they can be upset with the Commissioners and then the Commissioners can deal with it. Commissioner Reed mentioned that the important thing that has come out tonight is that the City needs to change this land use compatibility where they can get the multi-family away from the single-family and that needs to be done right away. He thinks this City needs some kind of plan to mitigate, when you go in and tear out a bunch of trees like what happened at The Mirage. He knows that some new trees are going to go in there but that affects this whole community.

Commissioner Blais mentioned that in today's Obituary, one of the City's former City Commissioner passed away, Mr. Harry "Dutch" Mostert and also another City employee had a memorial service today and that was Hutch Hutchinson. Commissioner Blais mentioned that they should be considering some type of park in the City that could recognize these former Holly Hill politicians before they become obscured and maybe that could be a thing of the Historical Society to work on. Commissioner Blais mentioned his trip to Tallahassee for Volusia Days.

MINUTES

Commissioner Penny thanked everyone for coming to the meeting. The citizens input was valuable and the Commission actually made some changes based on their input tonight; recognized Ms. Radulovich for a very successful Easter Egg Hunt and is also in the process of facilitating the City's 4th Annual *Antiques on the Avenue* which will be this weekend on the front lawn of City Hall from 10:00 a.m. to 5:00 p.m.; last year there was 14 vendors and this year they have 30 vendors that will be participating; the CRA is doing a great job promoting that the City has other things to offer; he would like to ask the Mayor if he would kindly reconsider introducing the staff that is present before the Commission meeting starts; the mentoring program has been postponed until next year due to some training and background checks that the school would like to conduct before they get started and the training will begin in August. Commissioner Penny asked if the Mayor had a chance to contact Pat Drago or someone at the School Board about the Middle School coming up?

Mayor Via stated yes, he spoke at Tallahassee and said that the City needed to talk with them and he talked to Candice Langford yesterday so he is expecting a call back shortly to try to put something together with the City. Mayor Via spoke briefly about his trip to Tallahassee for Volusia Days; spoke with Alex Sync who is the Chief Financial Officer for the State of Florida; VCOG is sponsoring two Budget Workshops – on May 30th at 5:30 p.m., on the East side at Embry-Riddle Aeronautical University and there will be more public information in the newspaper; on May 31st at 5:30 p.m., on the West side, Tom Harmer an adjunct Professor from the University of Central Florida will be speaking; his thoughts and prayers go out to the Mostert family and the Hutchinson family; a man he knew who lived at Bishop's Glen, Al Matthews, passed away recently and he was an amazing man and the Mayor mentioned that he attended his memorial service the other day; attending the Great Kids Explorer Club event on April 1st and presented them with a proclamation from the City; Mayor Via spoke briefly about trees and Arbor Day.

City Clerk asked the Mayor and Commissioners if they could bring forth some names for the Canvassing Board for this year's election because she would like to bring the Resolution to the Commission in May for approval of the names so it can be filed with the Supervisor of Elections Office in DeLand.

14. ADJOURNMENT

The meeting officially adjourned at approximately 9:35 p.m.

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

Roland D. Via
Mayor