

MINUTES

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

APRIL 11, 2006

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 7:00 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, City Attorney Butch Simpson, Acting Public Works Director/City Engineer Chris Hurst, Public Safety Director Don Shinnamon, Finance Director Brenda Gubernator, Community Development Director/City Planner Doug Gutierrez, Community Development 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 “Mr. & Miss Mainland” High School from Holly Hill

Mayor Via read and presented proclamations for Bonnie Smith and Justin Pelham for being “Mr. and Miss Mainland” who are Holly Hill residents.

- Proclamation for Volusia Youth of the Year – Dallas Durrance of the Holly Hill Boys and Girls Club

Mayor Via read and presented a proclamation to Dallas Durrance of the Holly Hill Boys and Girls Club.

Mike Medford, Executive Director of the Holly Hill Boys and Girls Club, thanked the City for all they do for the Boys and Girls Club in Volusia/Flagler Counties, especially for the Holly Hill unit. He has been there since 1996. He thanked the City for replacing the roof and presented the Mayor and Commissioners with a “Thank You” card from the kids.

Mayor Via mentioned that the Swerdlow/Boca Developers integrated \$50,000 into a special fund and that check was delivered by him to the Boys and Girls Club Council a couple of weeks ago. That money will go towards establishing volleyball courts, basketball courts and extra curricular outside activities for their Boys and Girls Club.

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Mr. Medford mentioned that they are going to name the park next to the Boys and Girls Club after Nick Zinna who was a member of the Club but passed away last year.

3. CONSENT AGENDA

- Minutes from Commission Day – March 21, 2006
- Minutes from the Regular City Commission meeting – March 28, 2006
- Minutes from the City Commission Workshop – March 28, 2006
- Lift Station #4 – New Pump
- Interlocal Agreement for Fire and/or Rescue Service Mutual Aid within Volusia County
- SCADA upgrade to iFIX and Computer replacement

Report of Purchase Orders over \$5,000

- **Volusia County – \$9,389.50**

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

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

4. AUDIENCE PARTICIPATION

Regarding items not on the agenda.

Roger Healey, 1211 Charter Oaks Circle, discussed his concerns about education and upgrading the temporary classrooms at the public schools. Mr. Healey mentioned that for 20 years he has been looking at those classrooms and they do not fulfill what the students need of this City. He mentioned the meeting over at Bishop's Glen on Thursday, April 13th with Margaret Smith, the Superintendent of the Volusia County School District who is going to be there speaking and he encouraged the Mayor and Commissioners to attend.

Mayor Via mentioned that the City is going to have a new Holly Hill Middle School. There is \$58 million budgeted for that project and due to break ground in 2007-2008.

Harriet Lewis, Executive Director of the Holly Hill Chamber of Commerce, asked the Mayor and Commissioners for approval of advertising a fundraiser called "Dice and Dance" on May 13, 2006 on the digital sign.

*Commissioner Anderson moved **APPROVAL** to advertise "Dice and Dance" on the City's digital sign, seconded by Commissioner Blais.*

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

**5. SPECIAL EXCEPTION – 1618 RIVERSIDE DRIVE – FLAG LOT –
APPLICANT: DAVID AND EILEEN HEALD**

Mr. Forte stated that this item is being pulled at the request of the applicant.

**6. SPECIAL EXCEPTION – PARKING EXPANSION – 1501 RIDGEWOOD
AVENUE – APPLICANT: ARTHUR KOWITZ**

Mr. Forte stated Mr. Kowitz has requested to expand his parking lot to go on to the property that is located directly behind him on Ridge Avenue. Mr. Kowitz owns the house and the property that he is looking to expand onto. Mr. Forte stated by expanding his parking lot onto that property behind him, he still is going to leave that property as a conforming lot and create a buffer zone in there and that's going to provide him an additional six spaces. It's a total of seven spaces that will go back there but he is losing some diagonal ones to create the six perpendicular ones. Staff has reviewed this and does not have a problem with this special exception.

*Commissioner Penny moved for **APPROVAL** the special exception for the parking expansion for Arthur Kowitz, seconded by Commissioner Blais.*

Commissioner Anderson asked how many spaces is Mr. Kowitz losing.

Mr. Forte stated he may lose one or two.

Commissioner Anderson stated that she drove up there today and it really infringes into the neighborhood. From the structure down, is that 30 feet or 20 feet where the buffer is?

Mr. Forte stated 30 feet.

Commissioner Anderson stated she thinks Mr. Kowitz is taking more than just three diagonal spaces out to make seven spaces. She thinks it would ruin the continuity of the backyards through that whole section.

Mayor Via opened public participation.

Charles Behney, 175 Flomich Avenue, stated he is representing Dave Stewart at 1500 Ridgewood Avenue. Mr. Stewart owns the property adjoining 1502 Ridgewood Avenue and has stated that he does not want this. Mr. Stewart has stated that this is going to have cars in his backyard. He does not want a commercial lot next to his house. Mr. Behney further stated as a homeowner here in Holly Hill, he wouldn't want a parking lot next to his house either. It would bring the value of the house down.

Mayor Via asked Mr. Harbuck about the fencing.

Mr. Harbuck stated they are going to move the fence back and put a vegetative buffer there.

Mayor Via asked if there is a vegetative buffer there now.

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Mr. Harbuck stated, no.

Mayor Via closed public participation.

Mr. Forte stated in Mr. Kowitz particular parking lot, he is scrapping to get every available spot he can. Staff gave him a couple of different alternatives and Mr. Kowitz said he wouldn't do this for two spaces but if he can get four, five or six additional spaces it's worth it to him because of the parking problem that he is having there.

Commissioner Penny asked is there currently privacy fences between 1500, 1502, and 1504 in their backyards.

Mr. Forte stated there is along the backline; he doesn't know what's along the side property lines. The fence that is on this lot that is in question will be moved back and stay in place. He could only imagine that it would have side fences. If not and there are no side fences and the Commission wants to make a side fence a condition of the special exception with vegetation, they can certainly do that.

Commissioner Penny asked if that would address Commissioner Anderson's concerns if the side fences were required.

Commissioner Anderson stated she thinks it's going to hurt the integrity of the neighborhood. She doesn't think that parking spaces should go there.

Commissioner Penny mentioned that parking is becoming more scarce since FDOT came through and eliminated many of their parking spaces. This is a situation...and they're right, it's going to reoccur and reoccur. As a business owner on U.S. 1 parking is a problem.

Commissioner Blais agreed with Commissioner Penny.

Commissioner Penny stated he would like to include that the side fencing be consistent with the rear fencing and include the landscape buffer in his motion to approve.

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

7. **DISCUSSION ITEMS ONLY**

A) **REQUEST FOR FUTURE LAND USE AMENDMENT – 1698
NOVA ROAD – APPLICANT: DAVID KUREK**

Mr. Forte stated this item went before the Board of Planning and Appeals and there was no recommendation from the Board to the City Commission so he did not prepare an ordinance for this item. He has asked Mr. Gutierrez to come up and present the facts of the case. If the Commission chooses, they can hear from the applicant or the applicant's attorney but what Mr. Forte is expecting out of this discussion is direction from the Commission whether or not to bring forward an ordinance changing the future land use map and the zoning classification of this piece of property. This is the piece of property that was annexed into the City and was never given a zoning classification or a future land use map classification.

Mr. Gutierrez gave a brief presentation. There are two items, and the first one they will discuss is the future land use amendment; without it they can't continue on with the zoning. Mr. Gutierrez stated the County has a Mixed Use land use on this property and mainly on all the surrounding properties there because over the years there was a hodgepodge of residential, commercial and industrial uses. To utilize it as a land use map, it would be very difficult because they would have small pieces of property with different land uses so they gave it a Mixed Use. The zoning is compatible to that; mainly it's heavy commercial and light industrial Mixed Use. Mr. Gutierrez stated the surrounding property in the City, all up and down Nova Road, is General Retail Commercial. In reviewing this, he is recommending that the Industrial Land Use not be approved and that they approve a General Retail Commercial that would be more consistent with the surrounding character of the properties. They currently have residential abutting it to the West; North, East, and South of that is CC-1 and General Retail Commercial. Mr. Gutierrez discussed the zoning for this property. Obviously, they can't do an Industrial Planned Unit Development (PUD) if the land use is not industrial. His recommendation would be that if they had General Retail Commercial would be zoning it to CC-1. CC-1 is one of their permissive zoning districts which basically reflect almost all the permitted uses in the industrial category with the exception of special exceptions that are allowed there. One of the uses that is not permitted in CC-1 is bulk storage of petroleum products but that was not the focus of his analysis. He will entertain any questions that the Commission may have and mentioned that the applicant is here with his attorney as well if they have any questions for them.

Mr. Forte asked what was the County's zoning prior to the annexation.

Mr. Gutierrez stated I-1(3). That means there are Mixed Use of B-5 and Light Industrial of their I-1.

Mr. Forte asked if the bulk petroleum use be permitted under that zoning.

Mr. Gutierrez stated any zoning, if they were in the County, would have to be a Planned Unit Development (PUD). Either a Mixed Use PUD or ...

Mayor Via stated for that use.

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Mr. Gutierrez stated for any use. They don't have a permitted use in that zoning district. It would have to be a PUD.

Peter Heebner, Attorney, 523 North Halifax, Daytona Beach, gave a brief presentation. He is here representing Ruby Kurek and David Kurek. There is an agreement between the City of Holly Hill and the Kurek's that in the event that certain services are not available within a certain period of time, that they would be allowed to de-annex and that any cost of that de-annexation would be borne by the City and they have a written document signed by the City to that effect. The Kurek's live on the property and also on the property behind it and there are other residences there. They entered into negotiations with AmeriGas who has been in the City for 40 years or more and they wanted to relocate their operation including more of a retail sales type operation as well as their bulk sales which they are here tonight to give a presentation of the actual use of the property as well as any safety issues the Commission may have. Mr. Heebner stated when they first came and met with staff they felt welcomed at that point in time and that this was a good idea and a good use of the property. They wanted straight zoning. They asked to be rezoned to I-1 so that would allow AmeriGas the bulk storage facility and allow AmeriGas to run the retail operation as well. There were some concerns by staff and said, "There are certain uses in your industrial zoning that we don't want," and we said, "fine, why don't we use the Industrial Planned Unit Development (IPUD) process because that allows us to enter into a contract with you and we could delete certain objectionable uses that are inherited in the industrial zone." They agreed to some more appropriate vegetative buffers and that would cure everybody's problems. They submitted an elaborate IPUD document and they provided a site plan with the vegetation buffers. They sent notices out to all the property owners and received petitions from a majority of the adjacent property owners approving and agreeing with the use of the property and submitted that to the City. Mr. Heebner mentioned that he was unable to come to the Board of Planning and Appeals meeting the other night and is not sure what happened but apparently there was concerns raised by the property owners about those uses and the Board said they weren't going to vote. Mr. Heebner stated he understands the staff's report and he has spoken to Mr. Gutierrez and respects his views. In reference to AmeriGas, if they look at the kind of use staff is concerned about, intensity of use on that particular site, think about the alternatives that their CG or their other zoning would require. He believes AmeriGas will tell them that there will be bulk storage and there will also be a loading of a certain amount of trucks but more of a retail use to refill different types of canisters for retail use on that site. If the neighbors are concerned about that use then think about the uses they would have in their normal commercial corridor. For example, HESS-mart that is opened 24 hours. All these types of uses are available that create more traffic, and a lot more activity through the night hours. Mr. Heebner handed out a safety article about propane gas to the Mayor and Commission.

Ron Morley, Manager for AmeriGas, 411 – 6th Street, gave a brief presentation. They have been there over 35 years. They have had no incidences there.

Mayor Via asked if they are looking to move exactly what they have on 6th Street to Nova Road or are they going to expand it.

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Mr. Morley stated exactly what they have there. There are four (4), 30,000 gallon tanks and they keep a supply of customer tanks as well. They are not going to add any more storage. What they have there now is what they plan on moving to the new location. Mr. Morley mentioned the Board of Planning and Appeals meeting. Mr. Morley handed out some information about propane and safety issues. He briefly discussed the safety of the trucks and the tanks and what they plan on doing on the site and the functions of the operation. He did not have the opportunity to do a presentation at the Board of Planning and Appeals meeting. They are wanting to make a show piece out of the property. They want it to be an extremely neat and clean operation that the whole company will be proud of.

Commissioner Penny asked how big are these storage tanks?

Mr. Morley stated 30,000 gallons a piece. Approximately, 79 feet long, 10 feet in diameter.

Commissioner Penny stated that's much larger than the tank at Daytona Gas and Grill.

Mr. Morley stated he is not sure what size that is. His tanks would be a maximum of 12 feet high.

Mayor Via stated they are not talking about expanding or adding a number of tanks, just what they already have.

Mr. Morley, correct. They have a small operation in the City of Edgewater that covers their Southern parts and they feel what they have now is adequate for many years.

Mayor Via opened public participation.

Jason Frederick, Realtor from Holly Hill, stated he has been working with AmeriGas for approximately a year trying to find them a location and have showed them numerous sites from way out by the County jail to up North almost in Flagler. What it comes down to, AmeriGas has a unique situation. They only need a small building with a large lot. The way the market prices are going, they are going to force this company that has been a part of this community for 40 years out of the community. Mr. Morley had told him that if they can't lock this down, they're going to have to move to Edgewater. Mr. Frederick discussed traffic counts with the Mayor and Commission.

Robert Taylor, 1124 Mistletoe Drive, stated he has been living there for almost 30 years and he is against the bulk plant. Mr. Taylor mentioned his concerns about traffic on Nova Road and the speeding of the traffic and the possibility of a semi-truck hitting one of those tanks filled with propane. He is representing fourteen neighbors tonight who live on Mistletoe and Buena Vista and they all told him they were against this. They do not want that bulk plant there! Mr. Taylor handed out pictures of a trailer that had blown up.

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Clay Beasley, All Florida Plumbing Electric Supply, 1670 North Nova Road, stated he is against the bulk plant. Mr. Beasley mentioned that his lawyer, Attorney Jim Morris was unable to make it tonight but he wanted him to mentioned that he will be here at the next meeting should this pass tonight. Mr. Beasley stated they own the property all the way from David Kurek to the South and he is more than willing to put that into CC-1. They have the same thing Mr. Kurek has which is I-1. He wants to do what's right for the City as well and bring it in and make it a retail site as well. He is stating for his company that they are willing to bring all that property in at one time to meet what's best for the City. He doesn't want any heavy industrial next to him and he doesn't want those gas tanks next to him. Mr. Beasley discussed safety valves and said that they do get defective and was concerned about safety. As far as them trying to get back out of the City, they don't have any reason to go back out of the City. They had City water and septic hook up just like I did and I hooked up to it and paid to come into the City. He thinks the gentleman mentioned at the last meeting that the City didn't give it to him but that was not true; the City gave it to him, he just didn't want to hook up to it. Mr. Beasley stated the guy needs to hook up to it and quite blaming the City for what he doesn't have.

Roger Healy, 1211 Charter Oaks Circle, stated Charter Oaks has a series of homes worth \$170,000 and they have Bishop's Glen next to it which is a nursing home facility, senior care center, and Holly Forest across the street with senior citizens and if they put those gas tanks there they've opened up a hornets nest. They will have so many people in this Chamber complaining. There are grammar school kids that walk by that area everyday. Are they going to take the risk in putting those gas tanks in and have those children injured? He hopes not.

Attorney Heebner spoke briefly about the safety concerns and the "fear" that is being discussed regarding the tanks and the possibility of a truck running into one of them and Mr. Morley spoke briefly about the safety of the tanks. Mr. Heebner stated trying to put this into some reasonable perspective – school children, always an important factor. If they were to use some reasonable analysis, let's say if they were going to put any service gas station and if they look at the circumstances in instances involved with gasoline at service stations in relation to propane, they would find its non-existent. The gas stations are far more dangerous to anybody walking by than the propane tank is going to be. He would like to instruct staff to favorable move forward and amend the comprehensive plan to allow this use and allow them to go ahead and complete the negotiations with the IPUD and provide the safety requirements that go along with that particular contract.

David Kurek, the applicant, 1698 North Nova Road, stated they were never offered City water and sewer. He has Daytona Beach water. Mr. Beasley may have gotten it but it was never offered to him. He had to buy it himself from Daytona Beach. He wants to do an IPUD and work with the City.

Lee Day, 1120 Mississippi Drive, stated he knows the Kurek's for a long time and his parents came to the house next door to the Kurek's in 1962. Mr. Day spoke about the traffic and stated that he is against this.

Mayor Via closed public participation.

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Commissioner Penny asked about moving to Edgewater.

Mr. Frederick stated they have an existing plant in Edgewater and if they can't find AmeriGas a location here in town then they are going to be forced to consolidate in Edgewater.

Commissioner Penny asked is that plant in a heavy industrial zone or does it abut a residential zone.

Mr. Frederick stated their current location now...the entire Westside of the property is abutted up against residential property.

Mr. Morley stated that piece of property is on 301 W. Park which is an industrial area in Edgewater.

Commissioner Reed stated he is rather familiar with propane. He uses it every day. He actually had a tank roll out of his truck and hit the ground and bounce on the road and he covered his ears but nothing happened. So he doesn't really think safety is an issue. He thinks accidents are caused by people not equipment, although there are probably some bad valves that happen but he can't support directing staff to go any further with this because he thinks Mr. Gutierrez has made the correct recommendation that this would be the wrong use for this property. He likes AmeriGas and he is glad that they have been in the City all these years but he just doesn't see this being the best use for this property. He knows the property will be valuable to them no matter how it's zoned. He feels that this talk about leaving the City is somewhat a little premature. He thinks it would probably be a mistake for them because he thinks what they are going to find out is the City, even though they may not go along with this recommendation, is probably going to be easier to deal with than the County would ever be. With that, he is recommending that they don't go any further with this and that staff doesn't draft the ordinance and he appreciates Mr. Gutierrez's recommendation.

Commissioner Penny agrees with Commissioner Reed. He wants to go on record to say that he is disappointed with their Board of Planning and Appeals that they chose to take no action on this matter. He, too, has to rely on their City Planner and appreciates his input and he wouldn't want this in his backyard.

Commissioner Anderson agrees with Commissioners Penny and Reed. It's quite obvious from the people who live there, 24 hours a day, don't want it there. She has to go with the citizens and she has to put her faith in the City Planner and she thinks he did the right thing. Back to the basics, it's going to be the quality of life for the people that live there and that's got to be the most important thing at this point.

Commissioner Blais stated he wishes they had another location in the City for them and he agrees with his fellow Commissioners.

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Mayor Via stated Commissioner Reed's thoughts were well displayed and it echoes many of the thoughts that they all have. He thinks the applicant and AmeriGas sees that their direction here is that they are not going to ask staff to move forward with this. With that being said, he doesn't want AmeriGas to think for one moment to think that they have not been a good partner and that they couldn't be another partner somewhere...he doesn't think the City has another piece of property for them but there is some property that is back along the railroad tracks but the railroad won't give that up. Mayor Via let the City Manager know that staff does not have recommendation to move forward with an ordinance for this. Mayor Via wanted Mr. Kurek to know that he has been a good partner too.

**B) REZONING REQUEST – 1698 NOVA ROAD – APPLICANT:
DAVID KUREK**

There was no discussion on this item because it went along with the future land use amendment which staff was directed not to move forward with.

8. SANITARY SEWER REHAB PROGRAM 2005 – CHANGE ORDER NO. 1

Mr. Forte stated this is an increase of \$75,775 to the existing State Revolving Fund loan as part of their sanitary sewer rehab program. This is for them to do additional inspections of the sewer system and possible repairs.

*Commissioner Blais made a motion to **APPROVE** the Change Order No. 1 in the amount of \$75,775, seconded by Commissioner Penny.*

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

9. COMMITTEE REPORTS

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

Mayor Via mentioned briefly the WAV meeting and that VCOG will be meeting next week.

10. COMMUNICATIONS

A. City Manager

Mr. Forte asked if anybody was going to attend the Safety Awareness Day on April 22nd in Port Orange. Mr. Gutierrez mentioned that he was going.

B. City Attorney

None.

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C. Mayor & Commissioners

Commissioner Penny thanked Ms. Radulovich for a successful *Antiques on the Avenue* and the Easter Egg Hunt which are sponsored by the Community Redevelopment Agency. Commissioner Penny stated that he would like to put a little bit more pressure on their Advisory Boards that when they meet, the Commission depends on them to give their recommendations. He would rather they give recommendations than take no action.

Commissioner Blais spoke about the Gators winning the Championship.

Commissioner Reed stated on March 29th he spoke with the Holly Forest Homeowners Association and they talked about eminent domain; Peter Colt was their guest on that. He thinks it went rather well. The CANDO group in Ormond Beach has achieved their goal with raising enough signatures for their ballot referendum so they will be coming forward and thinks this will be happening in Holly Hill soon. Commissioner Reed brought up the subject for the six criteria's for density bonus and he would like to workshop them because in his opinion those criteria's are simply too loose and easy to fulfill and they should be looking for something from the developer in a real meaningful manner other than just some green space or a fountain or something like that.

Commissioner Anderson stated she enjoyed Commission Day and it was the first time she got to walk around the City and meet everybody and meet the heart of the City. She was in total awe of how many talented people they have in this City working for them. It is amazing! She is amazed at how much loyalty and heart is in this City and that's very important to hear because a lot of times they hear the negative things but there is a lot of good in this City and she saw it that day. She has never seen people with such pride in everything they do. She wants to thank everybody for a wonderful day.

Mayor Via thanked the News-Journal for the articles in the paper regarding *Antiques on the Avenue*. He heard about the Easter Egg Hunt and how successful it was. He congratulated Ms. Susan Bowen, 1015 Great Oaks Drive who had won the Beautification Award. Ridgewood Avenue Community Church is hosting their free concert and fish fry on Saturday, April 15th.

11. ADJOURNMENT

The meeting officially adjourned at approximately 8:45 p.m.

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

Roland D. Via
Mayor