M I N U T E S
REGULAR COMMISSION MEETING
CITY OF HOLLY HILL, FLORIDA
April 27, 1999

1. CALL TO ORDER

Mayor William D. Arthur called the meeting to order in Commission Chambers at City Hall, 1065 Ridgewood Avenue at 7:30 p.m. Present were Mayor Arthur, Commissioners Arthur Byrnes, J. D. Mellette, Shirley Heyman, and Roland Via.

Also attending were City Manager, Don Lusk, City Attorney, Ed Simpson, Public Works Director, Milt Hallman, Police Chief, Larry Walker, Economic Development Director, Ira Corliss, Chief Building Official, Tim Harbuck, Personnel Director, Diane England, Bob Keeth, City Planner, and City Clerk, Joyce Holmquist.

2. INVOCATION

The Public Works Director, Milt Hallman, delivered the invocation.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. PRESENTATIONS & PROCLAMATIONS

A. The Mayor announced the city was proud of Ms. Ginny Maccio's twenty year service award, although Ms. Maccio could not be present at the meeting. Ms. Maccio served the city as secretary to the Police Chief.

B. Mayor Arthur read a Proclamation naming May 2 – 8, 1999 as Kiwanis International Builders Club Week. Mr. John Wooten, a former President of the Kiwanis, accepted the proclamation.

C. Mayor Arthur presented Certificates of Recognition to members of The Holly Hill Kiwanis Builders Club in recognition of their participation in the 2nd Annual Student Government Day.

D. Mayor Arthur presented nine U. S. Savings Bonds to first, second and third place winners in the Local Law Enforcement Block Grant, Anti-Drug/Crime Prevention Poster Contest Winners. First place awards were $250.00, second place awards were $200.00 and third place awards were $150.00.

Commissioner Byrnes presented a "sour grapes" plaque to the News-Journal Reporter, John Bozzo, regarding a news which had appeared subsequent to adoption of Resolution 99-R-11.

5. CONSENT AGENDA

A. Minutes of Regular Meeting – April 13, 1999.

B. Report of Purchase of Mower in the Amount of $7,450.00.

C. Report of Purchase of Parts for Fountain in the Amount of $5,255.00.

*Commissioner Via moved **APPROVAL of** the consent agenda, seconded by Commissioner Mellette.* The Mayor clarified that the intent of his comments at the last

Commission Meeting concerning the Local Government Study Commission consortium over fire service issues were that members of the City Commission should participate in the study irrespective of whether the city went through with the results of the study.

The motion **CARRIED** 5-0 on roll call: Via, yes, Mellette, yes; Heyman, yes; Byrnes yes; Arthur, yes.

6. AUDIENCE PARTICIPATION

The Principal of Holly Hill Middle School, Cathy Eggly, thanked the City Commission concerning the school's participation in the Local Law Enforcement Block Grant and respective poster contest.

7. SECOND READING, PUBLIC HEARING, ORDINANCE NO. 2560, CREATING THE HOLLY HILL RECREATION DEPARTMENT.

City Attorney Edward Simpson read **ORDINANCE NUMBER 2560** by short title.

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING SECTION 2-240 (RECREATION DIVISION) OF THE HOLLY HILL CODE OF ORDINANCES CHANGING THE NAME OF THE RECREATION DIVISION TO THE RECREATION DEPARTMENT AND DELETING THE REFERENCES TO THE RECREATION DIRECTOR AND SUPERINTENDENT; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

There were no comments as a result of the Public Hearing. *Commissioner Via moved* ***APPROVAL*** *of Ordinance Number 2560 on second reading, seconded by Commissioner Heyman.*

The motion to **APPROVE** Ordinance Number 2560 **CARRIED** 5-0 on the following roll call: Via, yes; Heyman, yes; Mellette, yes; Byrnes, yes; Arthur, Yes.

8. PUBLIC HEARING – FINDING OF A PUBLIC NUISANCE REGARDING 261 RIDGEWOOD AVENUE.

The Chief Building Official reported the building, formerly the Discount Carpet business, would be vacant one year this July. The building had fallen into deterioration and was below minimum codes. The roof and electric were in bad shape. The Building Official requested the Commission find the building to be a public nuisance and indicated he could provide a remedy after the Commission's findings. Mr. Harbuck, the Chief Building Official, reported there were two people living in the upstairs of the building. These individuals were tenants of the owner and had lived in the building ten or eleven years. The Commissioners were in receipt of lists of hazards and Mr. Harbuck reported no work had been performed in any regard.

As a result of the Public Hearing, Mr. Dave Rogers, one of the owners, addressed the Commission. Since the leased business had moved out, the building had been placed on the market for sale. Mr. Rogers reported he was willing to do something to make the building less of an eyesore indicating that a prospective buyer might want to purchase the building and bring it up to code. The Mayor advised he was concerned about the hazardous condition of the building and that vagrants could encamp in the building. Discussion indicated the Commission would not be addressing the problem if the building were merely unsightly, and that code violations had brought the issue before the Commission. Mr. Rogers reported he presently had no sales contracts on the property. Upon detailed discussion between the Building Official, City Manager, City Commissioners, City Attorney, and Mr. W. David Rogers, and upon review of the documents within the Commission Agenda Packet, Commissioner Mellette indicated a determination that the building was a public nuisance.

Commissioner Mellette moved to find the building located at 261 Ridgewood Ave. to be a public nuisance, seconded by Commissioner Heyman.

The motion to find the building located at 261 Ridgewood Ave. to be a public nuisance **CARRIED** 5-0 on the following roll call: Mellette, yes; Heyman, yes; Via, yes; Byrnes, yes; Arthur, yes.

Mr. Harbuck recommended, in light of failed efforts to have the building rehabilitated, the building be raised. The City Attorney indicated this was especially a concern relating to fire hazards as enumerated on the list within the Agenda Packet. The Commission discussed that the roof was also of concern. Discussion indicated the tenant should be granted thirty days notice to vacate the building, and the owner be given thirty days to obtain a permit to bring the building <u>fully</u> up to code, and if a permit were drawn, 45 days to start the work and 120 days to complete the work. It was noted that if the permit holder was almost complete on the 119^{th} day, the city would allow some grace time by returning the matter to the Commission. The City Attorney recommended that at a minimum, the city should revoke the certificate for any occupancy or use of the structure until complete code compliance and if the electrical, fire hazard issues, were not brought up to code, the city had a right to have the building demolished.

*Commissioner Heyman moved **APPROVAL** of providing the tenant thirty days notice to vacate the building, that the owner be given thirty days to obtain a permit to bring the building <u>fully</u> up to code, that if a permit were drawn, the owner be given 45 days to start the work and 120 days to complete the work, clarifying that if the owner did not obtain the permit within 30 days from the present Commission Meeting, that the tenant be given 30 days to move out, and if the owner was close to finishing within 120 days, that an extension be granted, seconded by Commissioner Byrnes.*

The motion to **APPROVE** the motion by Commissioner Heyman, seconded by Commissioner Byrnes, **CARRIED** 5-0 on the following roll call: Heyman, yes; Byrnes, yes; Mellette, yes; Via, yes; Arthur, yes.

9. FIRST READING, ORDINANCE NUMBER 2561, AMENDING THE LAND DEVELOPMENT REGULATIONS TO PERMIT SCHOOLS AS A SPECIAL EXCEPTION IN THE B-4 ZONING DISTRICTS SUBJECT TO CERTAIN CONDITIONS.

City Attorney Edward Simpson read **ORDINANCE NUMBER 2561** by short title.

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING ORDINANCE NO. 2352, THE LAND DEVELOPMENT REGULATIONS, TO PERMIT SCHOOLS AS A SPECIAL EXCEPTION IN THE B-4 ZONING DISTRICTS SUBJECT TO CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

Mr. Bob Keeth, City Planner, addressed the Commission indicating Trinity Lutheran Church had established a pre-school at the site of their existing church in accordance with regulations and then had grown beyond the presently existing regulations having established grades up to grade five. Therefore, the applicant was requesting an amendment to the B-4 Zoning District Regulations allowing schools as a special exception. Commissioner Byrnes questioned whether the church would still have to meet the parking requirements and other regulations, in the event a special exception was granted? Mr. Keeth responded in the affirmative.

*Commissioner Byrnes moved **APPROVAL** of Ordinance Number 2561, seconded by Commissioner Mellette.*

Mr. Keeth handed out a “first revision” to the ordinance reflecting some changes which did not affect the short title of the ordinance as recommended by Attorney Scott Simpson since the time of the Planning and Appeals Meeting and since the Commission’s agenda packet had been forwarded. Mr. Keeth explained the changes such as an off-street parking increase to five spaces for each elementary school class room, plus one for each employee or one space for each three seats in an auditorium or other place of assembly. Senior High requirements were proposed to be five off street parking spaces for each classroom pluse one for each employee, plus one parking space for each five students or one space for each three seats in an auditorium or other place of assembly, whichever was greater. Mr.. Keeth noted other criteria he had added explaining details of the proposed parking requirements and reporting he was recommending the changes after conversation with the facilities manager for the Volusia County School System. Commissioner Byrnes indicated he could agree with the parking requirements concerning Senior High; however, since elementary school students did not drive vehicles, he could not agree with the proposed, revised, parking requirements for elementary schools. Commissioner Byrnes questioned whether the Lutheran Church School planned to have a high school? An unidentified representative of the school present in the audience indicated no Senior High was planned. Commissioner Via emphasized that the only thing presently under consideration was whether to allow schools as a special exception in the B-4 Zoning District.

The planner pointed out that the CC-1 Zoning District provided for public uses as a permitted use and public uses might be construed to include schools. Some of the additional changes to the proposed ordinance addressed vehicle turn out areas for student drop off and pick up, the addition that if bus transportation is to be available to students, a bus turn out area shall be provided for student drop off and pick up and that it needed to have sufficient capacity to ensure that buses would not be backed up into the public right-of-way. There was also the addition of a single word pertaining to the six foot high fence or masonry wall, i. e., "it shall be <u>solid</u>." This would prohibit an open type fence construction which would not block noise. Also, there was an addition providing that the dense buffer shall be provided not just where property abuts residential property, but also where a residential property is separated only by a local street.

Mayor Arthur expressed a hope that the word "if" could be added in several other instances so that only if problems occurred would certain more stringent conditions need to be met. Discussion indicated concerns over determining who would decide a problem existed. Mayor Arthur indicated noise problems would be determined relative to neighbor's complaints. Mr. Keeth reported he had added language indicating the City Commission may vary from any of the requirements when a different approach would accomplish the intended purpose. The Commission would therefore need to establish justification for varying from the standards. Commissioner Byrnes noted the Commission had leeway concerning special exceptions.

Commissioner Byrnes indicated his motion had been for the original numbers in the original ordinance; if someone wanted to make an amendment they could do so, indicating he would vote against the revision since he did not approve of the five space requirement for elementary school classrooms, although he might see logic for two spaces being required. *Commissioner Via moved to accept revised Ordinance 2561 as presented by Mr. Keeth. Commissioner Mellette accepted the amendment.*

The motion on the amended motion to **AMEND** Ordinance Number 2561 on first reading **CARRIED** 3-2 on the following roll call: Via, yes, Mellette, yes; Heyman, yes; Byrnes, no; Arthur, no.

The motion to **APPROVE** Ordinance Number 2561, including the amendments, **CARRIED** 5-0 on the following roll call: Byrnes, yes; Mellette, yes; Via, yes; Heyman, yes; Arthur, yes.

10. EMERGENCY ORDINANCE NO. 2562, PROHIBITING OPEN BURINING AND FIREWORKS WITHIN THE CITY LIMITS OF HOLLY HILL FOR A TIME CERTAIN.

City Attorney Edward Simpson read Ordinance No. 2562 by short title.

AN EMERGENCY ORDINANCE OF THE CITY COMMISSION OF HOLLY HILL, FLORIDA, DECLARING A CITYWIDE BAN ON OPEN AIR BURNING AND THE USE OF FIREWORKS BY THE PUBLIC DURING THE 1999 FOREST AND BRUSH FIRE EMERGENCY; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR ADOPTION AND CODIFICATION AND SETTING AN EFFECTIVE DATE.

Commissioner Mellette moved ***APPROVAL*** *of Emergency Ordinance No. 2562****;*** *seconded by Commissioner Via.*

The Commissioners briefly discussed the ordinance. The City Manager reported the State had taken over and the ordinance was a formality; however, the ordinance illustrated the city's concern.

The Mayor recognized a member of the audience. Attorney Walter Foster, 315 S. Palmetto Avenue, addressed the Commission indicating he was confused regarding the prior agenda item as he had not had an opportunity to speak on behalf of his client who lived at 1247 Holly Avenue, Holly Hill, Fl., directly behind Trinity Lutheran Church. The Mayor reported a Public Hearing would occur on second reading. Mr. Harbuck reported that Attorney Foster would also have time to address Trinity Lutheran Church specifically when the church applied for a special exception. Commissioner Byrnes indicated, for the record, that his comments had been made in order to ascertain whether Trinity Lutheran planned to open a high school, stressing that the Commission was presently only addressing schools as a special exception in the B-4 zoning district and that he expected to see the Trinity Lutheran request three or four more times.

Discussion returned to the Emergency Ordinance concerning a ban on open air burning and fireworks.

The motion to **APPROVE** Ordinance No. 2562 **CARRIED** 5-0 on the following roll call: Mellette, yes; Via, yes; Heyman, yes; Byrnes, yes; Arthur, yes.

11. RESOLUTION 99-R-14, ACCEPTING FL. DEPT. OF TRANSPORTATION HIGHWAY SAFETY FUNDS IN THE AMOUNT OF $15,000 FOR THE PURPOSE OF PURCHASING A SPEED MONITORING AWARENESS TRAILER AND APPROVAL TO PIGGYBACK ORMOND BEACH BID TO PURCHASE A SMART PORTABLE SPEED LIMIT RADAR TRAILER..

City Attorney Edward Simpson read 99-R-14 by short title.

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ACCEPTING FLORIDA DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY FUNDS TO IMPLEMENT PROJECT NUMBER FS-99-27-13-01, THE CITY OF HOLLY HILL SPEED LIMIT COMPLIANCE PROGRAM; PROVIDING FOR REPEAL OF ALL RESOLUTIONS IN CONFLICT HEREWITH, AND PROVIDING AN EFFECTIVE DATE.

Commissioner Mellette moved ***APPROVAL of 99-R-14*** *and to piggyback the Ormond Beach Bid, seconded by Commissioner Heyman.*

The City Manager reported that the radar trailer could also perform traffic counts.

The motion to **APPROVE** 99-R-14 and to piggyback the Ormond Beach bid, **CARRIED** 5-0 on the following roll call: Mellette, yes; Heyman, yes; Byrnes, yes; Via, yes; Arthur, yes.

12. APPROVAL OF FUNDING DISTRIBUTION FOR FY2000 FORMULA SHARE OF FEDERAL BYRNE ANTI-DRUG ABUSE ACT GRANT FUNDS FOR PROPOSED LOCAL MATCH WHEREBY THE CITY OF HOLLY HILL RECEIVES $69,457 AND MATCHES $23,153.

Commissioner Via moved ***APPROVAL*** *of the funding distribution, seconded by Commissioner Mellette.*

The City Manager reported the distribution would provide for the needs of the new recreation department and the needed van. Commissioner Via requested that the van be handicap accessible. The City Manager indicated the van would be so equipped.

The motion to **APPROVE** the funding distribution, **CARRIED** 5-0 on the following roll call: Via, yes; Mellette, yes; Heyman, yes; Byrnes, yes; Arthur, yes.

13. RE-SUBMISSION/COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR FISCAL YEAR 1999/2000; RE-PROGRAM OF FUNDING TO MUNICIPAL SWIMMING POOL.

The City Manager reported the city was re-submitting because the sidewalk, sewer, and flood projects had been turned down and because the city had been told to re-submit. The manager indicated he had a change from what was intended tonight and recommended the Commission approve approximately $8,000 of the grant funds toward a sub-standard structure inspector. Therefore, the recommendation was for $100,000 toward the swimming pool, and $8,000 toward a part-time rehab-structure inspector. The city could put some additional funds toward the position at budget time.

*Commissioner Heyman moved **APPROVAL** of the recommendation to re-submit and re-program the CDBG Funds in the amount of $100,000 toward a municipal swimming pool and $8,000 toward a part-time rehab-structure inspector, seconded by Commissioner Mellette.*

The motion to **APPROVE** the recommendation, **CARRIED** 5-0 on the following roll call: Heyman, yes; Mellette, yes; Via, yes; Byrnes, yes; Arthur, yes.

14. APPROVAL OF PROFESSIONAL SERVICES PROPOSAL FROM QUENTIN L. HAMPTON ASSOC., INC. TO PREPARE THE CITY'S CONSUMPTIVE USE PERMIT APPLICATION PACKAGE.

The City Manager indicated engineering services were needed as part of preparing the application and the recommendation was to use the city's engineer of record to provide the services. The Commissioners discussed rising engineering fees in general and the possible need to do requests for proposals. The City Manager indicated he too had concerns about prices and he was monitoring the situation.

*Commissioner Heyman moved **APPROVAL** of the professional services proposal from Quentin L. Hampton Assoc., Inc. to prepare the city's consumptive use permit application package in the amount of $17,502.80; seconded by Commissioner Via.*

The motion to **APPROVE** the use of Quentin L. Hampton Assoc., Inc. to prepare the consumptive use permit application package, **CARRIED** 5-0 on the following roll call: Heyman, yes; Via, yes; Mellette, yes; Byrnes, yes; Arthur, yes.

15. AUTHORIZATION TO PURCHASE POLICE VEHICLE UNDER STATE CONTRACT NOT TO EXCEED $21,000.

The City Manager reported the vehicle could be purchased through the confiscated revenue fund.

Commissioner Byrnes moved ***APPROVAL*** *of the purchase of a 1999 Ford Crown Victoria not to exceed $21,000; seconded by Commissioner Mellette.*

The motion to **APPROVE** the purchase of the 1999 Ford Crown Victoria, **CARRIED** 5-0 on the following roll call: Byrnes, yes; Mellette, yes; Heyman, yes; Via, yes; Arthur, yes.

16. AUTHORIZATION TO ESTABLISH AN EMPLOYEE DISCOUNT FOR THE HOLLY HILL SUMMER DAY CAMP PROGRAM.

Commissioner Mellette moved ***APPROVAL*** *to establish an employee discount program for the Holly Hill Summer Day Camp; seconded by Commissioner Heyman.*

Discussion indicated the normal fee was $40.00 and $35.00 for the second child.

The motion to **APPROVE** the establishment of an employee discount for the Holly Hill Summer Day Camp, **CARRIED** 5-0 on the following roll call: Mellette, yes; Heyman, yes; Via, yes; Byrnes, yes; Arthur, yes.

17. COMMUNICATIONS FROM CITY MANAGER.

The City Manager reported he had waived a performance bond regarding "You & Me Gardens" concerning the Streetscape median work. The manager reported the contractor had dropped his price 5%, agreed to a 25% hold back, and to begin work the subsequent Monday. The City Manager requested retroactive approval.

Commissioner Heyman moved ***APPROVAL*** *of the waiver of the performance bond from "You & Me Gardens" as presented by the City Manager; seconded by Commissioner Mellette.*

The motion to **APPROVE** the waiver of the performance bond **CARRIED** 5-0 on the following roll call: Heyman, yes; Mellette, yes; Byrnes, yes; Via, yes; Arthur, yes.

18. COMMUNICATIONS FROM THE CITY ATTORNEY.

Attorney Simpson indicated he had nothing further to report.

19. COMMUNICATIONS FROM MAYOR & COMMISSIONERS.

Via - reported the city had received a complimentary letter from the Town of Ponce Inlet thanking the Holly Hill Police Explorers for their exemplary service to the town. Also, a recent, Sunday news story had discussed the City Manager/Council form of government and Holly Hill looked good not to be mentioned at all, with the exception of the City Clerk.

Byrnes - indicated many donations to charity could be made if the City Clerk made contributions each time her name appeared in the paper. A picture on the front page could be a ten dollar donation.

Mayor Arthur – Provided a brief report concerning a recent MPO Meeting and emphasized the need for the City Manager and the Public Services Director to attend some relevant upcoming meetings concerning improvements to LPGA.

16. ADJOURNMENT

The meeting adjourned to a workshop at approximately 9:20 p. m.

WILLIAM D. ARTHUR, MAYOR

ATTEST:

CITY CLERK