

MINUTES

**MINUTES
REGULAR COMMISSION MEETING
CITY OF HOLLY HILL, FLORIDA
April 8, 2003**

**1. CALL TO ORDER
A. Roll Call**

Mayor Arthur called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 7:00 p.m. Attending with Mayor Arthur were Commissioners Arthur Byrnes, Paul Lockeby, Lou Schmitt, and Roland Via.

Also attending were City Manager Joe Forte, City Attorney Edward Simpson, Assistant to the City Manager Greg Wood, Emergency Services Director Don Shinnamon, Development Administrator Tim Harbuck, City Planner Bob Keeth, and City Clerk Jeaneen Clauss.

B. Invocation

Ms. Clauss delivered the invocation.

C. Pledge of Allegiance to the Flag

**2. PRESENTATIONS & PROCLAMATIONS
Volusian Water Alliance Awards to Elementary School Students:
Justinia Abinette, Holly Hill Elementary School
Trisha Green, Hurst Elementary School**

Mayor Arthur presented award certificates and saving bonds from the Volusian Water Alliance to the above students.

Proclamation Recognizing Parents' and Children's Day – April 6th, 2003

Mayor Arthur asked Ms. Clauss to read the proclamation to the audience.

**3. CONSENT AGENDA
Minutes of Regular Commission Meeting – March 25, 2003
Minutes of Commission Workshop – March 25, 2003
Report of Purchase Orders Over \$5,000**

- Tom Nair Painting - \$5,700
- Myer Land Surveying - \$9,978.75

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

The motion **CARRIED** 5-0 on roll call: Via – yes, Schmitt – yes, Lockeby – yes, Byrnes – yes, Arthur - yes.

MINUTES

4. COMMITTEE REPORTS

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

Commissioner Via advised that the Water Transition Team will be meeting tomorrow morning at 8:00 a.m. in New Smyrna Beach. The purpose of the meeting is to express their comments on the first draft of the interlocal agreement – which he and staff have just received. Either he or staff will attend tomorrow.

Mayor Arthur advised that he will be leaving Saturday to attend an MPO conference in Chicago on the Rail Study.

Commissioner Schmitt advised that the Chamber of Commerce will host a breakfast on May 15th at Sica Hall with a business forum to follow. Tables will be sold for \$20 each.

5. AUDIENCE PARTICIPATION

Regarding items not on the agenda.

Diane Boyd, 4037 Tacoma Drive, Ormond Beach, spoke on behalf of the Concerned Citizens for Animal Welfare in Volusia County and asked that the Commission consider supporting legislative passage of two bills to close the loopholes in animal fighting laws. She gave the City Clerk a form, which would be mailed to Tallahassee, should the Commission opt to show support for this. She advised that every day our local humane society is treating dogs which have been used in this practice.

6. RESOLUTION 2003-R-15, APPOINTING A MEMBER TO THE PAL / RECREATION BOARD

Mr. Simpson read by short title:

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, APPOINTING A MEMBER TO THE PAL/RECREATION BOARD AND SETTING FORTH THE TERM EXPIRATION DATE FOR SAID MEMBER; AND PROVIDING AN EFFECTIVE DATE.

Mr. Forte advised that we have an application from Carl Jablonsky to serve on this Board. Mr. Jablonsky is a coach in their PAL program. He comes highly recommended by the Recreation Director. Commissioner Via indicated that he was acquainted with Mr. Jablonsky and felt he would be a real asset on that Board.

*Commissioner Via moved to **APPROVE** Resolution 2003-R-15 appointing Carl Jablonsky, seconded by Commissioner Byrnes.*

The motion **CARRIED** 5-0 on roll call: Via – yes, Byrnes – yes, Schmitt - yes, Lockeby - yes, Arthur - yes.

MINUTES

7. **RESOLUTION 2003-R-16, APPOINTING A MEMBER TO THE MPO CITIZENS ADVISORY COMMITTEE**

Mr. Simpson read by short title:

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, APPOINTING A MEMBER TO SERVE ON THE CITIZENS ADVISORY COMMITTEE TO THE METROPOLITAN PLANNING ORGANIZATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Forte advised that we have two applications for this position, one from Albert Cone, Jr. and one from Big John. Ms. Clauss advised that both applicants were present at this meeting. Mayor Arthur advised that he had asked Big John to consider this position before they had received Mr. Cone's application and that Big John has chosen to withdraw his application to allow another citizen the opportunity for involvement. Mayor Arthur recommended Mr. Cone for this position.

*Commissioner Via moved to **APPROVE** Resolution 2003-R-16 appointing Albert Cone, Jr., seconded by Commissioner Lockeby.*

Commissioner Via referred to Mr. Cone's application and thanked him for his twenty-one years of service to our country in the Army National Guard.

The motion **CARRIED** 5-0 on roll call: Via – yes, Lockeby – yes, Schmitt - yes, Byrnes – yes, Arthur - yes.

8. **SECOND READING OF ORDINANCE 2657, AMENDING THE CITY'S SIGN REGULATIONS**

Mr. Simpson read by short title:

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE HOLLY HILL CODE OF ORDINANCES, SECTION 110-4 (B), "SIGNS WITHOUT PERMIT; NONCONFORMING SIGNS", TO REMOVE THE CURRENT LIMIT ON EXPENDITURES FOR CHANGING, REPAIRING, OR MAINTAINING A NON-CONFORMING SIGN; AMENDING SECTION 110-6, "PROHIBITED SIGNS", TO ALLOW CERTAIN SIGNS COMMONLY REFERRED TO AS WIND SIGNS; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Schmitt moved to **APPROVE** the Second Reading of Ordinance 2657, seconded by Commissioner Lockeby.*

Commissioner Via clarified that if they find the reduction in regulations to be a problem, they will revisit this issue. Commissioner Byrnes expressed concern about conflicting with State Law

MINUTES

regarding interference with traffic. Mr. Keeth advised that our current regulations provide for compliance with the State Law. Mayor Arthur commented that the purpose of a sign is to interfere with traffic.

The motion **CARRIED** 5-0 on roll call: Schmitt - yes, Lockeby – yes, Byrnes – yes, Via – yes, Arthur - yes.

9. FIRST READING OF ORDINANCE 2658, AMENDING THE COMPREHENSIVE PLAN TO ALLOW FOR THE REZONING OF PROPERTY OWNED BY BUD SEVERINO LOCATED AT 1364 NOVA ROAD (SOUTHEAST CORNER OF 8TH AND HOLLY)

Mr. Simpson read by short title:

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2265, THE COMPREHENSIVE PLAN, AS PREVIOUSLY AMENDED, BY REVISING FIGURE II-6, THE FUTURE LAND USE MAP, TO CHANGE THE FUTURE LAND USE DESIGNATION OF APPROXIMATELY 7.35 ACRES LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF EIGHTH STREET AND HOLLY STREET FROM URBAN MEDIUM DENSITY (VOLUSIA COUNTY) TO “WHOLESALE COMMERCIAL AND INDUSTRIAL”; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Schmitt moved to **APPROVE** the First Reading of Ordinance 2658, seconded by Commissioner Lockeby.*

Mr. Keeth explained that this would designate the westerly 60 feet of this property as a conservation district, which would preclude development of this area. It could be used as a retention area though, so it is not really a buffer as one usually thinks of one. Commissioner Schmitt inquired of the developer as to why they did not leave their own tree buffer zone when they developed this subdivision. Dennis Buckley, Oak Bluff Developer, responded that they did not cut down any trees other than where they had to in order to build - there is a twenty-five to thirty-five foot tree boundary around the entire property. Joe Hopkins, Engineer with Performance Group, elaborated on their superior tree buffer and wetland preservation.

Public Participation:

Aleta Allinder, 1376 Cedar Bluff

Corinne Delaney, 1372 Vine Street

Dorothy Morbeson, 1362 Vine Street

As residents of Oak Bluff subdivision, the above individuals spoke against this rezoning because they felt it would be detrimental to their community.

MINUTES

Jim Morris, attorney with Hansen & Morris, 420 South Nova Road, Daytona Beach, spoke on behalf of the Oak Bluff Developer. Mr. Morris said that after speaking with our assistant city attorney, it seems that our house is not in order regarding this plan amendment. The local planning agency must hold a properly advertised public hearing prior to amending the plan. There was some discussion as to who held the role of LPA because, if it is the Commission, this requirement would have been met prior to the actual public hearing - which is the second reading of the ordinance. Since the Board of Planning and Appeals is an advisory board, it was thought that the Commission is the actual LPA. Initially, it was unknown whether the Commission had ever formally designated any official body to serve as the LPA. However upon further research it was determined that the Commission had designated BOPA as the LPA. Therefore, the City had not met the legal requirements thus far for consideration of a Comprehensive Plan Amendment. Additional legal concerns are raised because the conservation zone idea was not presented to BOPA. BOPA had recommended against the strict rezoning of the property to I-1 and had discussions that this would be better for the area as a PUD. However, they could not focus on that because that was not what the applicant had requested. With that said, Mr. Morris then requested that as they re-do this process they consider this property more suitable for a Planned Unit Development, in order to prohibit the things that all agree would be undesirable at this location. The applicant, Bud Severino, 1360 North Nova Road stated that he had reviewed all of the zoning classifications with Mr. Wood and he did not want to request a PUD. One area of concern is that I-1 permits adult entertainment. There is a provision that prohibits its abutment to residential zoning, but the addition of the conservation zone unintentionally disrupts that prohibition enabling it to be placed there. Mr. Severino asked that the conservation zone be deleted from this ordinance because it had been intended as an added benefit to the Oak Bluff residences but it was turning out to be a detriment. Mr. Simpson recommended the first reading of this ordinance be delayed and this proposal be sent back to BOPA. After considerable discussion on all of these areas of concern, the Commission decided to continue with first reading tonight and send this back to BOPA after proper advertising for their recommendation on specifically the comprehensive planning amendment. Second reading of this ordinance would follow.

*Commissioner Schmitt **MODIFIED HIS MOTION** to delete the conservation flood plane zone, seconded modified by Commissioner Lockeby.*

The motion **CARRIED** 4-1 on roll call: Schmitt - yes, Lockeby – yes, Byrnes – yes, Via – no, Arthur - yes.

Commissioner Via stated that he supported the project not the procedure.

10. FIRST READING OF ORDINANCE 2659, REZONING PROPERTY OWNED BY BUD SEVERINO LOCATED AT 1364 NOVA ROAD (SOUTHEAST CORNER OF 8TH AND HOLLY) FROM COUNTY R-7 (MULTI-FAMILY) TO CITY C-F (CONSERVATION FLOOD PLAIN) AND CITY I-1 (LIGHT INDUSTRIAL)

Mr. Simpson read by short title:

MINUTES

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING ORDINANCE NO. 2352, THE LAND DEVELOPMENT REGULATIONS, BY REZONING APPROXIMATELY 7.35 ACRES, LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF EIGHTH STREET AND HOLLY STREET, FROM R-7, MULTI-FAMILY RESIDENTIAL CLASSIFICATION (VOLUSIA COUNTY), TO I-1, LIGHT INDUSTRIAL DEVELOPMENT DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Schmitt moved to **APPROVE** First Reading of Ordinance 2659 with the deletion of the conservation flood plane zone, seconded by Commissioner Lockeby.*

Mr. Morris reiterated the concern of his client and preference for this property being zoned as a PUD, once they correct their procedure.

The motion **CARRIED** 4-1 on roll call: Schmitt - yes, Lockeby – yes, Via – no, Byrnes – yes, Arthur - yes.

11. FIRST READING OF ORDINANCE 2660, ADDRESSING OUTSIDE SALES BY NONLICENSED OPERATORS

Mr. Simpson read by short title:

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE HOLLY HILL CODE OF ORDINANCES, CHAPTER 114, ARTICLE III, DIVISION 11, SECTION 114, “OUTSIDE SALES BY NONLICENSED OPERATORS”, PRESCRIBING WHEN OUTSIDE DISPLAY AND SALES SHALL BE PERMITTED; PRESCRIBING TERMS AND CONDITIONS FOR THE CONDUCT OF OUTSIDE DISPLAY AND SALES; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Lockeby moved to **APPROVE** First Reading of Ordinance 2660, seconded by Commissioner Schmitt.*

Mr. Forte explained that we currently have an ordinance that allows for itinerant sales during special events anywhere within the City at a licensed business. This ordinance would reduce this to only the special events of bike week and biketoberfest, which are the only events that impact the City. This came about because of a large itinerant vendor who has been set-up for several months in the Krystals parking lot at the corner of Ridgewood and Mason to sell sneakers. The reason he has been legally able to be there so long is because we recognize all of Daytona Beach’s special events –Race Week, followed by Bike Week, followed by Spring Break. Vendors of this type have a negative effect on the commerce conducted throughout Volusia County. Commission Byrnes and Commissioner Via expressed some hesitation on this because

MINUTES

they did not want to restrict their city businesses in this way. The Commission clarified that they could add events like the Christmas Parade to their City special events list. Fireworks vendors were discussed and it was determined that there were other places within the County where fireworks could be purchased. The majority of the Commission indicated that they did not feel they should make an exception for the selling of fireworks. However, Commissioner Byrnes disagreed and indicated he felt this was harmless provided a nice convenience to the citizens. The Commission agreed that they would like to provide the regular fireworks vendor sufficient notice to relocate.

*Commissioner Via moved to **AMEND THE MOTION** by deleting Section 114-902(5) effective January 1st, 2004, seconded by Commissioner Schmitt.*

The motion on the AMENDMENT **CARRIED** 4-1 on roll call: Via – yes, Schmitt - yes, Lockeby – yes, Byrnes – no, Arthur - yes.

*Commissioner Byrnes moved to **AMEND THE MOTION** by increasing the fee from \$200 per site to \$250 per site, no second.*

Motion on the Second AMENDMENT **DIED**.

*Commissioner Lockeby **MODIFIED** the MAIN MOTION to delete the fee amount and provide for it to be set by resolution of the Commission, second modified by Commissioner Schmitt.*

The MODIFIED MAIN motion **CARRIED** 5-0 on roll call: Lockeby – yes, Schmitt - yes, Byrnes – yes, Via – yes, Arthur - yes.

12. FIRST READING OF ORDINANCE 2661, ADDRESSING THE PARKING AND STORAGE OF BOATS, RECREATIONAL VEHICLES, AND EQUIPMENT

Mayor Arthur requested they remove this item from the agenda and review this in detail at a workshop. He had desired it to be more of a complete front yard appearance ordinance. He wanted something that regulated the use of carports and prevented the use of items like sheets as “garage doors”, etc...

13. FIRST READING OF ORDINANCE 2662, ESTABLISHING NEW RULES AND REGULATIONS FOR WRECKER SERVICE

Mr. Simpson read by short title:

AN ORDINANCE REPEALING CHAPTER 74 (VEHICLES FOR HIRE), ARTICLE III (WRECKERS), DIVISION 2 (REMOVAL OF VEHICLES FROM PRIVATE PROPERTY) OF THE HOLLY HILL CODE OF ORDINANCES; ADOPTING A NEW DIVISION II (TOWING AND STORAGE REGULATIONS) ESTABLISHING RULES AND REGULATIONS FOR THE TOWING AND/OR STORAGE OF VEHICLE WITHIN THE CITY LIMITS; PROVIDING FOR

MINUTES

SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Lockeby moved to **APPROVE** First Reading of Ordinance 2662, seconded by Commissioner Byrnes.*

Mr. Simpson stated that he feels this is an outstanding ordinance. Commissioner Byrnes inquired as to the enforceability of the requirement to accept credit cards. Mr. Simpson advised that it should be upheld if the company accepts credit cards for other reasons. Mayor Arthur stated that he did not see the benefit of a one-time fee for posting a tow warning sign at a particular location. This fee will actually be set by resolution but the purpose of it is to regulate these and insure the sign was there prior to the car which could be towed.

The motion **CARRIED** 5-0 on roll call: Lockeby – yes, Byrnes – yes, Schmitt - yes, Via – yes, Arthur - yes.

14. COMMUNICATIONS

A. City Manager

Mr. Forte indicated that he had nothing further to report.

B. City Attorney

Mr. Simpson indicated that he had nothing further to report.

C. Mayor and Commissioners

The Commission thanked the citizen in the audience, Gracie Anderson, for attending this meeting. Ms. Anderson had been in phone contact with Mr. Forte regarding flooding concerns and decided to take an interest in her local government by attending a Commission meeting.

Commissioner Byrnes indicated he had nothing further to report.

Commissioner Lockeby stated that he is still pulling for a mini-convention center.

Commissioner Schmitt indicated he had nothing further to report.

Commissioner Via thanked Mayor Arthur for the Water Conservation Month proclamation. He stated how surprised he was that Ormond Beach's 12.2% voter turn-out resulted in everything on the ballot failing. He referred to the dangerous dog fee resolution they had passed at the last meeting and reiterated his concern that the fee was too high, adding that he would prefer an insurance provision. This led to further discussion of State Law in this area. Mr. Forte advised that State Law provides that they could put the dog down if it has inflicted injuries resulting in stitches, etc... Commissioner Via pointed-out the conceptual sign which had been placed in

MINUTES

front of them for their input. The Commission agreed that they liked the sign but would prefer the larger digital board, at a total estimated cost of approximately \$80,000.

Mayor Arthur indicated he had nothing further to report.

15. ADJOURNMENT

The meeting officially adjourned at approximately 10:04 p.m.

City of Holly Hill, Florida

William D. Arthur
Mayor

Attest:

Jeaneen P. Clauss, CMC
City Clerk