

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

May 28, 2013

1. CALL TO ORDER

A. Roll Call

Mayor Johnson called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue, at approximately 7:00 pm. Attending with Mayor Johnson were Commissioners Penny Currie, Donnie Moore and Elizabeth Albert.

Absent: Commissioner John Penny.

Also attending were the following staff members: City Manager James McCroskey, City Attorney Scott Simpson, Finance Director Kurt Swartzlander, Police Chief Mark Barker, Fire Chief Jim Bland, City Planner Tom Harowski, Community Services Director Jacki Maswary, Human Resources Manager Sandy Fenwick, Sergeant Toby Wall, and City Clerk Valerie Manning.

Mayor Johnson announced that a former City employee who worked in the Finance Department for 22 years has passed away, Barbara McFall; they will remember her during the invocation this evening.

B. Invocation

Snake Andress led invocation.

C. Pledge of Allegiance to the Flag

Mayor Johnson led the Pledge of Allegiance.

*Commissioner Albert made a motion to **EXCUSE** Commissioner Penny, seconded from Commissioner Currie.*

The motion **CARRIED** 4-0 by roll call vote: Albert – Yes, Currie – Yes, Moore – Yes, and Mayor – Yes

2. MINUTES

Minutes from the Regular City Commission & Community Redevelopment Agency meeting – May 14, 2013 (*City Clerk*)

*Commissioner Moore moved **APPROVAL** for the **MINUTES**, seconded by Commissioner Albert.*

The motion **CARRIED** 4-0 by roll call vote: Moore – Yes, Albert – Yes, Currie – Yes, and Mayor – Yes

3. PUBLIC PARTICIPATION

Regarding items not on the agenda

Mayor Johnson opened public participation.

The following individuals came forward to speak:

- Snake Andress, Snake's Welding, Holly Hill – Addressed the City Commission by letting them know that during the Civil War Re-enactment that he did, the community was able to raise \$1509.00 and he is present tonight to present a check to the K-8 Holly Hill School Principal Julie Roseboom for the school band.
- Principal Julie Roseboom from the K-8 Holly Hill School, Holly Hill – Addressed the City Commission by thanking the Police and Fire Departments for their assistance during last week's school bomb scare; appreciates all that they did.
- Richard Murdock, 520 Peacock, Holly Hill – Addressed the City Commission by sharing his concerns about the constant harassment about him streaking in his yard and the neighbor who is dumping trash in a vacant lot.
- Bill Arthur, 1140 Riverside Drive, Holly Hill – Addressed the City Commission by sharing his concerns about information that he has heard on the radio pertaining to the flag issue; gave a brief history of how that section became about in 1995.
- Arthur Byrnes, Holly Hill – Addressed the City Commission by sharing his concerns about the lack of Code Enforcement near the old cement place; piles of debris on the property and looks like the place has been being vandalized over time; graffiti on the building.
- George Thomas Burgen, 1514-C Espanola Avenue, Holly Hill – Addressed the City Commission by sharing his concerns about the Mayor telling the citizens they are not allowed to applause during a meeting but it's okay for them to do it; and when did the City become an advertising agency.
- Jim Legary, 342 Burleigh Avenue, Holly Hill – Addressed the City Commission by suggesting that the City have a music event in the park; he realizes there is music at The Market on Thursday evenings but he is requesting something else; an event where no one has to spend money to enjoy or attend.
- Tammy Bratcher, manager for Bikers For First Amendment Rights (B.F.F.A.R.), Holly Hill – Addressed the City Commission by sharing her concerns about the various signs and banners down at The Market and if the City is asking for the businesses to pay for signs and banners the City should play by the same rules.
Mr. McCroskey answered the citizens' concerns and informed Ms. Bratcher that the City has paid for the signs and banner down at The Market.

Mayor Johnson closed public participation.

4. CONSENT AGENDA

Volusia Growth Management Commission – Member Appointment (*City Clerk*)

This item was postponed until June 11th City Commission until the City Clerk has had a chance to hear from Mr. John Heaphy as to whether or not he desires to continue serving on the board.

5. BUSINESS AGENDA

A. SIGN REGULATION AMENDMENT ~ CITY COMMISSION DISCUSSION & POSSIBLE FIRST READING (*City Manager/City Attorney*)

Attorney Simpson stated what they have before them are two different proposes. At the last meeting the Mayor and Commissioners gave staff direction and the first ordinance is pretty close to the direction they gave which was to increase it to four flags; there are a couple of additional changes he made to that. There is also language in there for interpretation about two principle uses on a single parcel. The next ordinance is one that himself and the City Manager worked on that; that as an attorney believe is more constitutional or addresses issues several issues that he has read in cases. The main thing that it does it changes how you calculate the number of flags that are allowed. Attorney Simpson described “noncommercial speech” and a “noncommercial sign” to the Mayor and Commission. Military branch flags would fall under “noncommercial” flags.

Commissioner Currie stated the flags that she sees in the back, the various branches of military service flags, that’s what Attorney Simpson is talking about....allowing one for every 25 feet of frontage.

Attorney Simpson stated yes, that’s noncommercial.

Commissioner Currie stated if someone only had, say 50 feet of frontage or somebody 75 feet of frontage, they would have to pick two or three of those flags to fly.

Attorney Simpson stated they would get three flags.

Commissioner Currie stated she would like to make a motion to abolish Section 110-8(g); she still stands by with what she said at the last meeting. She wants to make that motion. She appreciates all the work that staff has put in to this but that’s still not going to work. Commissioner Currie stated the reasons why. “If a property, most of the city’s properties, and I understands it’s going to work for Eddie Colosimo, it will work for that establishment. I am a Commissioner who worries about the entire City of Holly Hill. Nothing against those two people and their establishment. This is not going to work for the entire City of Holly Hill because most of our properties, establishments within the City of Holly Hill are not 200 feet of frontage, 250 feet of frontage; if you have that in the City of Holly Hill, you better consider yourself pretty darn lucky. Most of our properties in the City of Holly Hill are only going to be probably 50 feet, *maybe* 75 if you’re lucky. Therefore, you’re going to have to choose two to three of those flags to fly. So, they find ourselves back to the same problem where we were before for the entire city. I’m not looking at this to solve for this gentleman on the front row or for you as the manager of the establishment because that’s only a band aide for the problem. I want to solve this problem for the entire city of whom I was elected by. I only represent District 2 but I was

elected by the entire city and that's who I have to be responsible to. That's what I'm looking out for. That's why I'm making the motion." Commissioner Currie stated if this body at some point would like to have a workshop to where they can take some time to look over this issue to where these flags are not an issue. Those flags fly for a reason and that's because as a Nation we respect the men and women that serve to protect us. She doesn't believe that they should have to choose which ones they fly.

*Commissioner Currie made a motion to **ABOLISH** Section 110-8(g), **DIED FOR LACK OF A SECOND.***

Attorney Simpson addressed some of Commissioner Currie's comments and briefly discussed how several cities have gone to Federal Court over the issue of flags.

Mayor Johnson opened public participation.

The following individuals came forward to speak and share their concerns and frustrations pertaining to the flag issue and sign regulations within the City of Holly Hill: Bill Arthur, Holly Hill; Forrest Currie, Holly Hill; County Chairman Jason Davis; Steve Samples, Holly Hill; Rick Bacardi; Arthur Byrnes, Holly Hill; Eddie Colosimo, Holly Hill; Tammy Bratcher, Holly Hill; Jeff Martin, Holly Hill; Patricia Bailey; Jim Legary, Holly Hill; George Thomas Burgen, Holly Hill; Robert Costy; and Attorney Carl Griffin representing Bikers for First Amendment Rights (B.F.F.A.R.).

Mayor Johnson closed public participation.

Mr. McCroskey answered the citizens questions and concerns during public participation.

*Commissioner Albert made a motion to **APPROVE ALTERNATIVE #2**, seconded by Commissioner Moore.*

The motion **CARRIED** 3-1 by roll call vote: Albert – Yes, Moore – Yes, Currie – No, and Mayor – Yes

B. HALIFAX MEDIA SUBDIVISION FINAL PLAT *(City Planner)*

Attorney Simpson stated that in the motion to include that one plat be filed and accepted with the approval of the final plat.

*Commissioner Moore made a motion to **APPROVE the HALIFAX MEDIA SUBDIVISION FINAL PLAT WITH THE FILING OF ONE PLAT**, seconded by Commissioner Albert.*

The motion **CARRIED** 4-0 by roll call vote: Moore – Yes, Albert – Yes, Currie – Yes, and Mayor – Yes

C. **PUBLIC HEARING** – SECOND READING OF ORDINANCE 2936,
GOLF CARTS ON CITY STREETS (*City Planner*)

Attorney Simpson read by title only:

ORDINANCE NO. 2936

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, CREATING CHAPTER 66 (TRAFFIC AND VEHICLES), ARTICLE VII (GOLF CART REGULATIONS) TO ALLOW FOR GOLF CARTS ON CERTAIN CITY ROADS; PROVIDING FOR REGULATIONS OF GOLF CARTS AND GOLF CART OPERATION; PROVIDING FOR LICENSING OF GOLF CARTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Albert made a motion to APPROVE Second Reading of Ordinance 2936, seconded by Commissioner Moore.

The motion **CARRIED** 4-0 by roll call vote: Albert – Yes, Moore – Yes, Currie – Yes, and Mayor – Yes

D. **FIRST READING OF ORDINANCE 2937, AMENDMENT TO FLORIDA GUN EXCHANGE PLANNED UNIT DEVELOPMENT (PUD) – 1050 NOVA ROAD – APPLICANT: BERKSHIRE INVESTMENT HOLDINGS, INC. (*City Planner*)**

Attorney Simpson read by title only:

ORDINANCE NO. 2937

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2904, THE FLORIDA GUN EXCHANGE BPUD DEVELOPMENT AGREEMENT, BY AMENDING THE EXISTING DEVELOPMENT AGREEMENT TO ESTABLISH A MINIMUM SIDE YARD SETBACK OF EIGHT (8) FEET ON THE NORTH PROPERTY LINE AND TO ALLOW THE REAR YARD SETBACK TO BE REDUCED TO TEN (10) FEET PROVIDED SPECIFIC CONDITIONS ARE MET; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Albert made a motion for ARROVAL for First Reading of Ordinance 2937, seconded by Commissioner Currie.

Mayor Johnson opened public participation. No one spoke.

The motion **CARRIED** 3-1 by roll call vote: Albert – Yes, Currie – Yes, Moore –No, and Mayor – Yes

E. RESOLUTION 2013-R-35, EAST VOLUSIA FIRE / EMS INTERLOCAL AGREEMENT – FIFTH AMENDMENT *(Fire Chief)*

Attorney Simpson read by title only:

RESOLUTION NO. 2013-R-35

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT PROVIDING FOR THE ESTABLISHMENT OF THE EAST VOLUSIA LOCAL GOVERNMENT FIRE-RESCUE AND EMERGENCY MEDICAL SERVICES AUTOMATIC AID AND CLOSEST UNIT RESPONSE SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Albert made a motion for ARROVAL for RESOLUTION 2013-R-35, seconded by Commissioner Currie.

Mayor Johnson opened public participation. No one spoke.

The motion **CARRIED** 4-0 by roll call vote: Albert – Yes, Currie – Yes, Moore –Yes, and Mayor – Yes

**F. RESOLUTION 2013-R-36, INTERLOCAL AGREEMENT – LOCAL OPTION
FUEL TAXES** (*Finance Director*)

Attorney Simpson read by title only:

RESOLUTION NO. 2013-R-36

**A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA,
ACCEPTING THE RENEWAL OF THE INTERLOCAL
AGREEMENT APPROVED BY RESOLUTION NO. 2003-R-45
FOR DISTRIBUTION OF PROCEEDS OF THE 6-CENT AND
ADDITIONAL 5-CENT LOCAL OPTION FUEL TAXES, FOR
AN ADDITIONAL FIVE YEAR TERM ENDING ON AUGUST
31, 2018; AND PROVIDING AN EFFECTIVE DATE.**

*Commissioner Moore made a motion for **ARROVAL** for **RESOLUTION 2013-R-36**, seconded
by Commissioner Currie.*

Mayor Johnson opened public participation.

The following individuals came forward to speak:

- Richard Murdock, 520 Peacock, Holly Hill – Addressed the City Commission by asking how much higher now; Volusia County has the highest taxes and there's no money coming in.

Mayor Johnson closed public participation.

The motion **CARRIED** 4-0 by roll call vote: Moore – Yes, Currie – Yes,
Albert – Yes, and Mayor – Yes

G. RESOLUTION 2013-R-37, JOINT PARTICIPATION AGREEMENT – UNITED BRETHREN IN CHRIST (UBIC) YOUTH ATHLETIC LEAGUE
(Community Services Director)

Attorney Simpson read by title only:

RESOLUTION 2013-R-37

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE THE JOINT PARTICIPATION AGREEMENT BETWEEN THE CITY OF HOLLY HILL AND UNITED BRETHREN IN CHRIST TO PROVIDE RECREATIONAL PROGRAMS KNOWN AS HOLLY HILL YOUTH ATHLETIC LEAGUE; AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Moore made a motion for APPROVAL for RESOLUTION 2013-R-37, seconded by Commissioner Albert.

Mayor Johnson opened public participation. No one spoke.

The motion **CARRIED** 4-0 by roll call vote: Moore – Yes, Albert – Yes, Currie – Yes, and Mayor – Yes

6. COMMUNICATIONS

a. City Manager

Mr. McCroskey asked if everyone could keep Commissioner Penny's family in their prayers; informed the citizens that next month the bridge will be torn down.

b. City Attorney

None.

c. City Clerk

None.

d. Mayor & Commissioners

Commissioner Currie sent her condolences to Commissioner Penny's family; thanked staff for all their hard work on the flag issue.

Commissioner Moore sent his condolences to Commissioner Penny's family; asked if Fire Chief Bland ordered the new fire truck and thanked him for his hard work since he's been with the City.

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Commissioner Albert shared her concerns and had a few questions for Commissioner Currie pertaining to her look on the flag issue and things that involve enforcement within the City that are in the City's ordinances; reminded everyone about the upcoming Kids on The Hill June 6th at 4:00 PM at The Market; glad to see that the City is trying to compromise with the flag issue; sent her condolences to Commissioner Penny's family; thanked the Police and Fire Departments for their help during last week's bomb scare at the school.

Commissioner Currie clarified her concerns about the flag issue and section 110-8(g) to Commissioner Albert.

Mayor Johnson sent his condolences to Commissioner Penny's family; mentioned that he spoke at two Memorial Day services; reminded everyone that the City didn't make this flag issue a "Military" issue, makes him upset that the public sees it that way and thinks that he is disloyal to the Military flags because that is not the case.

7. ADJOURNMENT

Mayor Johnson officially adjourned the meeting at approximately 9:30 pm.

Valerie Manning
City Clerk