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

June 12, 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 7:00 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, Public Safety Director Don Shinnamon, Finance Director Kurt Swartzlander, Public Works Director/City Engineer Chris Hurst, Community Development Director/City Planner Doug Gutierrez, Community Redevelopment Coordinator Marsha Radulovich, and Liz Nelson, recording secretary.

B. Invocation

Mayor Via delivered the invocation.

C. Pledge of Allegiance to the Flag

2. PROCLAMATIONS – Signed by the Mayor

Mayor Via read the Proclamation in honor of Bill France, Jr. who passed away on June 7, 2007.

PRESENTATIONS

None.

3. CONSENT AGENDA

1. Minutes from the Community Redevelopment Agency Workshop – May 22, 2007
2. Minutes from the Regular City Commission meeting – May 22, 2007
3. Increase Change Order – U.S. 1 and Nova Road median landscape projects – Increase in engineering fees – from $66,635 to $100,435
4. U.S. 1 and Nova Road median landscape and irrigation project - $26,008
5. Decrease Change Order No. 2 – Redevelopment District Utilities Improvements

Commissioner Reed asked if they could pulled Consent Agenda Item #3, for further discussion.

*Commissioner Reed moved **APPROVAL** for the rest of 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.

Discussion on Consent Agenda Item #3:

Commissioner Reed asked for an explanation for this item.

Mark Hampton, President of Quentin Hampton Associates gave a brief explanation for the increase change order for U.S. 1 and Nova Road median landscape projects. There was an increase in engineering fees from $66,635 to $100,435. This project, as it is now, is a culmination of approximately three years of work and the City had three original projects. One was for the landscaping of U.S. 1 and Ridgewood Avenue and the other two are two pieces on Nova Road; North and South. It was original visualized by the City as three separate projects and what happened was the permitting on Nova Road got permitted the first time by their firm when Nova Road was being constructed but when the City went to bid for it, the Department of Transportation (DOT) said they couldn't bid it because their contractor is still working. The permit expired and DOT made the City go back to the front of the line and get a permit all over again. Quentin Hampton has never charged the City a dime for the second time of design for the project. The City then bid all three of the projects at the same time to get the best competitive bid instead of having individual ones and that has been completed and they are now moving forward with the projects.

*Commissioner Reed moved **APPROVAL** for Consent Agenda Item #3, 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.

Vince Faulkner, Wide Open Cycles, 157 Carswell Avenue, shared his concerns about the homeless foot traffic on Carswell Avenue from Mason Avenue to 3rd Street to the TMR Recycling yard. Mr. Faulkner mentioned that it has become more and more of a problem. The Police have done what they can over there, they put a sign on his building about No Trespassing. The problem is not so much of them being on his property, it's the tying up of traffic on the roadway itself. Mr. Faulkner went by TMR Recycling to see the operation. He believes if the foot traffic was eliminated going onto that lot, there would be no reason for them to be traveling through there. The worst two days for the foot traffic to the recycling yard is trash days which is Mondays and Thursdays.

Marie Beitia, Rosie's Ktchn, 1008 Ridgewood Avenue, passed out a letter to the Mayor and City Commission pertaining to her property. Mrs. Beitia mentioned that on page 2, shows the actual part of the building she is proposing for auto sales. Mrs. Beitia mentioned that Sam and Greta Tabaku owner and operator of Dyno-Power, approached her to lease her property and Mr. Tabaku expressed his interest in moving his auto sales to her location on 10th Street. Mrs. Beitia discussed the ordinance that's in place now that prohibits any used-car lots in the Community Redevelopment Area.

Mayor Via stated he thinks Mrs. Beitia's question to the Commission tonight is, the City currently has CC-1 zoning, that's Overlay District Zoning, and she is asking if there is anything that the Commission can do about it to allow her business to have the auto sales under this configuration that she has presented tonight.

Mrs. Beitia stated, correct.

Mayor Via stated if it's the will of the Commission they will talk about this now. If there is a will to change the CC-1 Overlay District then they will move this to a workshop situation. If there is no will to do that then it ends here.

Commissioner Reed stated while he wants to support small businesses, he can't see where a car lot is going to do well unless he is going to have visibility from Ridgewood Avenue. Mr. Tabaku is obviously going to have to have some cars towards the front of the restaurant.

Mrs. Beitia mentioned that there will be visibility because they are on the corner.

Commissioner Reed stated he is familiar with the area. The City has gone through the trouble of taking car lots off Ridgewood Avenue to try to facilitate the CRA and now they are going to turn around and put one back on. They have one special exception at LPGA Blvd., which many people are not happy with. Commissioner Reed mentioned to Mrs. Beitia that he is torn with her request.

Mrs. Beitia stated she would never allow to let her building look like the one on LPGA Blvd. This can only enhance the look; it could not hurt it at all.

Mayor Via asked is there three or more Commissioners that want to change the Overlay District in the CC-1 in reference to one business.

Commissioner Penny stated that's where it becomes difficult. He has spoken with Mrs. Beitia and he knows Mr. Tabaku, both great people. The problem is the City is in a metamorphosis in this City; they are making changes for the future. Although it's difficult to look at an individual right in the eye, that this affects "you" but it affects the greater community. Hill's Plumbing had several opportunities to sell that building and change it into an automotive use and he was told no repeatedly. He can't support changing a zoning for one business.

Mayor Via informed the Commission if they change the ordinance for one business, you are changing it for all businesses. They have already been saying no along the way. The Commission did make a determination that the Overlay District was a necessity, and they are right in the middle of doing the Master Plan for the CRA. Mayor Via stated that he doesn't see the will of the Commission to act on this so at this time it's not something that is going to happen.

Commissioner Reed stated he thinks the timing couldn't be any worse right now. They are right in the middle of having HHI develop a Master Plan for the CRA and it really couldn't be any worse.

5. PUBLIC HEARING – RESOLUTION 2007-R-17, MID-FLORIDA HOUSING PARTNERSHIP, INC. – SURPLUS REAL PROPERTY

Attorney Simpson read by short title:

RESOLUTION 2007-R-17

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, DECLARING CERTAIN REAL PROPERTY OWNED BY THE CITY AS SURPLUS; FINDING THAT IT IS IN THE BEST INTEREST OF THE CITY TO WAIVE COMPETITIVE BIDDING AND TO AUTHORIZING THE SALE OF SAID PROPERTY TO MID-FLORIDA HOUSING PARTNERSHIP, INC., BY NEGOTIATED CONTRACT PRICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Mayor Via opened public participation.

Maureen Monahan, 215 – 5th Street, mentioned that she has a little bit of a problem with this but she doesn't have a problem with affordable housing, doesn't have a problem with Mid-Florida Housing Partnership. She has a problem with the process. She doesn't think it's fair. She would like to know where the values came from. This particular Resolution is just about the sale of the property, is that correct?

Commissioner Reed stated, correct.

Ms. Monahan stated she believes when public property is sold and it used to be defined that way by the Charter that it would have to go before the public and not just in the form in a Commission meeting. She strongly believes that things like this should be in front of the public in a form of a referendum, now or six months from now, or whenever it's affordable to do that. Don't believe just because it's Mid-Florida Housing that they should just go ahead and do something like this without having the public legally involved and she doesn't mean just Commission involvement.

Mayor Via closed public participation.

Mr. Forte stated the values were retrieved on like properties that were appraised by Carl Vealy, an appraiser that works on mostly government and state owned lands; he gets involved with a lot of eminent domain cases where he appraises properties and also private properties. The City received appraisals on like property probably two years ago that were approximately $50,000 to $55,000 per parcel that backed up to a retention pond such as this and that's where the City used got figures from.

Mayor Via asked about the auction procedure.

Mr. Forte stated usually when they have a public land they do go out for a public bid on those properties. In this particular case, it was talked at the Commission level, where they would by-pass the public bidding process because these properties were going to be used for affordable housing so to narrow the focus down of somebody out bidding what could be an affordable housing property by a couple hundred or thousand dollars, the City created an Ordinance that said by Resolution of two readings, you can sell properties in this manner for this reason.

Mayor Via asked how many public meetings or workshops have they had on this.

Mr. Forte stated they probably had two workshops on this and they will be having another workshop on how to sell the properties, and then they had at least two, actually this will be the third meeting they had on this.

*Commissioner Reed made a motion to **APPROVE** Resolution 2007-R-17, seconded by Commissioner Blais.*

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

6. PUBLIC HEARING – RESOLUTION 2007-R-18, MAGNOLIA AVENUE DEVELOPMENT GROUP, LLC – ACQUIRE SURPLUS REAL PROPERTY AND TRANSFER TWO HOMES TO THE CITY OF HOLLY HILL

Attorney Simpson read by short title:

RESOLUTION 2007-R-18

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, DECLARING CERTAIN REAL PROPERTY OWNED BY THE CITY AS SURPLUS; FINDING THAT IT IS IN THE BEST INTEREST OF THE CITY TO WAIVE COMPETITIVE BIDDING AND TO AUTHORIZING THE SALE OF SAID PROPERTY TO MAGNOLIA AVENUE DEVELOPMENT GROUP, LLC BY NEGOTIATED CONTRACT PRICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Attorney Simpson added that he has a recommendation that he would like to see incorporated in the Addendum to the Contract, the fifth page after the Resolution. The contract and the addendum are between the Magnolia Avenue Development Group, LLC, as seller and the City of Holly Hill, Florida as buyer. If the Commission would look at the second un-numbered paragraph on that page, beginning with the word "developer", there are several references in this addendum to the developer. On the next page, paragraph number four refers to responsibilities warranties of the developer. The developer is not a party to this transaction; the developer is working for the seller; all references to developer should be deleted and replaced with references to the seller. Subject to those changes being made to the addendum, it's in proper legal form.

Mayor Via opened public participation.

Maureen Monahan, 215 – 5th Street, stated again she goes back to the appraisal situation and the addresses, what are they on Jasmine Avenue? If this again, goes into affordable housing situation…she noticed that they are having a workshop tonight to define affordable housing. They are trying to pass things where they haven't actually defined everything yet. The two homes on Jasmine, whether they are vacant or occupied, how do they determine who is going to buy those and for how much. Who is controlling this? Is the City now going to be realtors as a City?

Mr. Forte stated the 18 lots are small lots; they are being combined in to what will be six buildable lots. The developer/builder is going to extend Magnolia Street to 10th Street so because he is putting in the infrastructure and he is building 17 homes, which would be on the new Magnolia through to Jasmine, they came up with the thought of allowing the builder to take possession of those six buildable lots where he would construct six more homes at fair market value in exchange for giving the City two of his newly constructed homes, both valued at about the same amount which is approximately $189,000.

Ms. Monahan stated, and that's affordable.

Mr. Forte mentioned that's what's affordable under Mid-Florida Housing's criteria and the County's criteria and that's what the City is going by. They are using Mid-Florida Housing's standards.

Mayor Via closed public participation.

*Commissioner Blais made a motion to **APPROVE** Resolution 2007-R-18, seconded by Commissioner Penny.*

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

7. PUBLIC HEARING – SECOND READING OF ORDINANCE 2800, PROHIBITING SMOKING IN DESIGNATED YOUTH ATHLETIC FIELDS/PARKS

Attorney Simpson read by short title:

ORDINANCE NO. 2800

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, PROHIBITING THE SMOKING AND/OR USE OF TOBACCO PRODUCTS AT DESIGNATED YOUTH ATHLETIC FIELDS/PARKS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Via opened public participation. No one spoke.

*Commissioner Anderson made a motion to **APPROVE** the Second Reading of Ordinance 2800, seconded by Commissioner Penny.*

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

8. PUBLIC HEARING – SECOND READING OF ORDINANCE 2799, LAND DEVELOPMENT REGULATION (LDR) AMENDMENT – DIVISION 3, FENCES AND WALLS, SECTIONS 114-721 THROUGH 727

Attorney Simpson read by short title:

ORDINANCE NO. 2799

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE CONSOLIDATED LAND DEVELOPMENT REGULATIONS, CHAPTER 114, ZONING REGULATIONS; AMENDING DIVISION 3, FENCES AND WALLS. THE AMENDMENT SPECIFIES CONSTRUCTION REQUIREMENTS, PROHIBITED WALL AND FENCE TYPES AND MAINTENANCE REQUIREMENTS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Doug Gutierrez, Community Development Director/City Planner, gave a brief presentation on the Land Development Regulation (LDR) amendment, Division 3, Fences and Walls, Sections 114-721 through 727 to the Mayor and Commission. Mr. Gutierrez used the overhead projector to show them the recommended changes from the last meeting.

Mr. Forte informed the Mayor and Commission that staff has made all the necessary changes that the Commission recommended at the last meeting and they included the conditions that revolve around the corner lots and it's under the staff's recommendation portion where they will see that information.

Mayor Via opened public participation. No one spoke.

*Commissioner Reed made a motion to **APPROVE** the Second Reading of Ordinance 2799, seconded by Commissioner Anderson.*

Commissioner Reed stated he thinks staff has done a fine job in bringing the City up to speed with the rest of the cities in the County.

Commissioner Anderson stated after the workshops and reading through this, she thinks they came up with the best way of trying to please everybody and she thinks everybody did a good job on this. There was a lot of hard decisions in trying to please everybody which you can't all the time but she thinks they really did the best job they could ever do on anything like this and she thinks the staff did an excellent job on this.

Commissioner Penny stated he thinks staff has done an excellent job taking in all the comments from the Commission. The one thing that he doesn't like, visually, and he would ask for the Commission to reconsider in making a minor change to this Ordinance and that is fences in the front of the houses.

Commissioners Blais, Reed, and Anderson and Mayor Via agreed to leave the fences in the front of the houses and leave it to the property owner; let it be their option to either have a fence there or not.

Maureen Monahan, 215 – 5th Street, mentioned that she attended the Planning and Appeals meeting where they discussed all this and they went into everything in depth. Front yards…they have to keep in mind also that not everybody has a backyard; a lot of people don't have backyards and a fence in a front yard is what they need. She thinks a front yard fence is a good thing that a property owner should be allowed to make that choice.

The motion **CARRIED** 4-1 on roll call: Reed – Yes, Anderson – Yes, Penny – No, Blais – Yes Mayor Via – Yes

9. FIRST READING OF ORDINANCE 2801, VOLUNTARY ANNEXATION – 1706 PALM ROAD – APPLICANT: JAMES DiGAETANO

Attorney Simpson read by short title:

ORDINANCE NO. 2801

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA ANNEXING BY VOLUNTARY PETITION PROPERTY LOCATED AT 1706 PALM ROAD (Tax Parcel Number 4242-35-01-0040) CONTIGUOUS TO THE CITY OF HOLLY HILL; REDEFINING BOUNDARIES OF THE CITY OF HOLLY HILL TO INCLUDE SAID PROPERTY; DIRECTING THE CITY CLERK TO FILE THE ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT, WITH THE CHIEF ADMINISTRATIVE OFFICER OF VOLUSIA COUNTY AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Doug Gutierrez, Community Development Director/City Planner, gave brief presentation on the voluntary annexation at 1706 Palm Road; applicant is James DiGaetano.

Mayor Via opened public participation.

Jim Legary, 342 Burleigh Avenue, asked if Mr. DiGaetano is proposing to change anything here.

Mr. Forte stated nothing is changing; it's just going to meet the City's zoning because of the lot size.

Mr. Legary asked what benefit is Mr. DiGaetano going to derive from this?

Mr. Forte stated he is going to have the wonderful City of Holly Hill as his local government representation.

Mr. Legary stated, and a voice in the community.

Mr. Forte and Mayor Via stated, absolutely.

Maureen Monahan, 215 – 5th Street, asked how many residences will Mr. DiGaetano be allowed to have now versus not changing.

Mayor Via stated it's single-family.

Mr. Forte stated, just one. Mr. DiGaetano's buildable area only allows for one unit.

Ms. Monahan asked what if he buys the property next door.

Mr. Forte stated he can build two houses; one on each lot.

*Commissioner Reed made a motion to **APPROVE** the First Reading of Ordinance 2801, seconded by Commissioner Anderson.*

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

10. FIRST READING OF ORDINANCE 2802, DISSOLVING THE HISTORIC PRESERVATION BOARD AND CHANGING IT TO THE HISTORIC PRESERVATION SOCIETY, INC.

Attorney Simpson read by short title:

ORDINANCE NO. 2802

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA DISSOLVING THE HISTORIC PRESERVATION BOARD; AMENDING ORDINANCE NO. 2795 TO REPLACE REFERENCES TO THE CITY'S HISTORIC PRESERVATION BOARD WITH THE HOLLY HILL HISTORIC PRESERVATION SOCIETY, INC., PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Via opened public participation. No one spoke.

*Commissioner Blais made a motion to **APPROVE** the First Reading of Ordinance 2802, seconded by Commissioner Anderson.*

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

11. FIRST READING OF ORDINANCE 2803, AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS – DUMPSTER PADS

Attorney Simpson read by short title:

ORDINANCE NO. 2803

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE CONSOLIDATED LAND DEVELOPMENT REGULATIONS, CHAPTER 90. DEVELOPMENT STANDARDS, ARTICLE III – DESIGN AND CONSTRUCTION STANDARDS, DIVISION 4 – UTILITIES, ADDING SECTION 90-206 DUMPSTER PAD DESIGN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Doug Gutierrez, Community Development Director/City Planner, gave a brief report on the amendment to the Land Development Regulations (LDR) for dumpster pads to the Mayor and Commission.

Mayor Via opened public participation.

Maureen Monahan, 215 – 5th Street, asked is this just requiring the pad or an enclosure around an opened dumpster.

Mayor Via stated, yes.

Ms. Monahan asked is it just commercial property.

Mayor Via stated, yes.

Ms. Monahan asked is a small apartment building considered commercial property.

Mr. Forte stated, yes.

Mayor Via closed public participation.

There was some discussion amongst the Commission about commercial businesses who have these dumpsters, that the Ordinance be considered retroactive for those businesses as well.

Attorney Simpson stated he has a comment regarding the use of the term "retroactive". He thinks what the Commission wants to do, as it's presently drafted, this Ordinance would take effect and would apply to everybody within the City, whether they have one now or they have one in place in the future, as its drafted today. That's what the Ordinance currently says. *Only* if they want to grandfather people who have existing sites would they have to do retroactive.

Commissioner Reed stated maybe what they need to do is look at the ones that exist now and where it's a hardship they can let it go and where it's feasible they can have the property owner do it.

Mayor Via stated, and if they have to do it, because of the expense, give them a two year period to comply. Eventually, the City will have what it needs with the dumpsters coming in and give them a two year time to comply with everyone else.

Mr. Forte stated on new construction it would be incorporated into the design standards but on an existing construction they have to take the location of the property, the right-of-way, and the access that a trash vehicle would have to get to it.

Mayor Via stated the City Attorney pointed out in the Ordinance that this is for *all* dumpsters. Can they move forward on this for First Reading and make this a business standard and then review, and make sure it's stated within Commissioner Anderson's motion here, that it's not grandfathered in. The motion right now was for *all* dumpsters. Mayor Via asked Attorney Simpson if he could guide them in what language needs to be in this Ordinance that it states, at this point, this Ordinance 2803 is for *new construction only*.

Attorney Simpson stated as it is passed right now, the motion and the language that's contained in the Ordinance, in his opinion, it would apply to *all*. There are circumstances where you decide that the setback on a building needs to be 12 feet instead of what used to be 10 feet. You can't go out and make a property owner knock down his wall and build a new wall. This Ordinance has provisions in it that probably may fall into that category but they may also fall into the category of it has to be enclosed, it has to be visually screened and those kinds of things, you probably do want those to apply to all, he thinks. But things where somebody has to go knock something down to build something new that's been there for a while, you may want to make an exception for those and either allow those to be grandfathered, is the right term, or phased in, given a period of time to do that. If that's what the Commission's intention is, staff can craft the Ordinance so it does those things; those things that the Commission wants to be effective for everybody, right now, they put those things in and explain that these are intended to be effective for everyone right now. It may have to do with visual screening and there may be other things in this Ordinance but that's one; those things where the Commission would want someone to be grandfathered because it creates an economic hardship for them, it can be construed as taking a property. Those things, the Commission can either allow them to phase in or not have them apply at all to existing. It doesn't have to be all or nothing. You can sort of pick and choose the things you want to be grandfathered and the things you don't want grandfathered in and those things that you want to be phased in over time. That's typically how it's done.

Mayor Via asked who makes the decision on whether they have to conform or not and how it's phased in. Is it staff?

Attorney Simpson stated the Commission does. The Commission tells staff what they want the Ordinance to look like and staff will craft it to meet the Commission's intention. Right now, they have an Ordinance that doesn't say anything about somebody being grandfathered, it doesn't say anything about amortization or giving a grace period to construct the changes. They either make it apply to everybody or they only make it apply prospectively. There may be things that the Commission wants to apply only prospectively; there maybe things they want to apply to everyone now and that will depend on the nature. There are different things spelled out in this Ordinance.

Mayor Via stated that's a lot of changes. He is wondering whether this First Reading should be tonight.

Mr. Forte stated the complaint the City is going to get from most of the business people that put their dumpsters in improperly at the time is, "This dumpster has been here for 15 or 20 years and now you're going to come along and make me enclose it or screen it or plant flowers that are going to die because there is no irrigation". Mr. Forte stated he thinks this is a step in the right direction and they should just make it for new construction.

Commissioner Reed stated they should start with that.

Commissioner Penny asked is there any way that they can at least make them screen it; the existing businesses? Just so people don't have to look at it.

Mr. Forte stated that's ultimately the goal but when you think about how you would screen it based on some of the locations of these dumpsters, it's virtually impossible to screen them. Some of them are adjacent to the right-of-way, there's no room to enclose it, and they can't put a fence around it.

Mayor Via stated if they would have had this Ordinance in place years ago, they wouldn't even be discussing this tonight. That's what they want to discuss now and that is anything *new* coming in, they have to have these dumpster standards.

Commissioner Anderson stated so they can pass this for the new construction and then possibly workshop something for the existing dumpsters.

Mayor Via asked Attorney Simpson, how do they make sure that this Ordinance is for new construction only?

Attorney Simpson stated they would put a provision in here that says all construction of dumpster pads and installation of dumpster subsequent to the adoption of this Ordinance shall be required to comply with the following provisions.

Mayor Via asked if Commissioner Anderson's motion will include that.

Commissioner Anderson stated, yes.

*Commissioner Anderson made a motion to **APPROVE** the First Reading of Ordinance 2803 which includes Attorney Simpson's recommended language above – referring to future dumpster construction pads, fences, etc., seconded by Commissioner Penny.*

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

There was consensus from the Commission to move Agenda Item #13 before Item #12.

13. RESOLUTION 2007-R-25, VOLUSIA GROWTH MANAGEMENT – REAPPOINTMENT

Attorney Simpson read by short title:

RESOLUTION NO. 2007-R-25

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, REAPPOINTING A MEMBER TO SERVE ON THE VOLUSIA GROWTH MANAGEMENT COMMISSION FOR A THREE YEAR TERM UNTIL JUNE 30, 2010; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Penny made a motion to **APPROVE** Resolution 2007-R-25 and reappointing John Heaphy to the Board, seconded by Commissioner Blais.*

Mayor Via stated Mr. Heaphy has been on this Board for 18 years.

Commissioner Reed asked if he has enjoyed all those years.

Mr. Heaphy stated it has been interesting.

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

12. FIRST READING OF ORDINANCE, 2804, AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS – ACCESSORY STRUCTURES

Attorney Simpson read by short title:

ORDINANCE NO. 2804

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE CONSOLIDATED LAND DEVELOPMENT REGULATIONS, CHAPTER 114 - ZONING, ARTICLE III – SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 4 – BUILDING AND STRUCTURES, AMENDING SECTIONS 114-741 THROUGH 746; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Doug Gutierrez, Community Development Director/City Planner, gave a brief report on the amendment to the Land Development Regulations (LDR) for accessory structures to the Mayor and Commission. This is before the Commission tonight based on a workshop staff had with the Commission several months back dealing with converting sheds, garages, utility sheds into living facilities. It's unsafe; for it's location it can be a problem to their neighbor if their shed is five feet from the property line and they have someone living in there.

Mr. Forte stated the issue that's at hand, the reason why this was brought to the Commission is that it's happening, it starting to happen more and more. One of his biggest concerns is the City is now encouraging it to happen; the difference is the City is putting in place conditions to regulate it from happening. One view is to not allow it to happen anywhere and where they exist, eliminate them and the other is to control the way that it's happening and put regulations on them which in essence is going to create a lot of, in his opinion, two family homes on single-family properties. It's going to be very difficult for staff to decipher who is a "relative" of somebody living above the accessory structure and who is not, especially when the Code allows for five unrelated people to live in the primary structure.

Mayor Via opened public participation.

Maureen Monahan, 215 – 5th Street, mentioned that she did attend the Planning and Appeals meeting pertaining to this and they did go into depth about it. This has been analyzed and analyzed again and she thinks this is a good situation. There are a lot of us who are getting older, she is not fortunate enough to have her parents with her anymore but they also have siblings and some of them need residences too and the way the economy and everything else, sometimes people need to have places to either be a caretaker or care for their elderly or dependent children. She thinks this is a good thing.

Mayor Via closed public participation.

*Commissioner Reed made a motion to **APPROVE** the First Reading of Ordinance 2804, striking letter "E" under Section 114-742; under letter "B", Accessory Apartments/Garage Apartments, number 5; seconded by Commissioner Anderson.*

The following changes were made for the Second Reading of Ordinance 2804:

DIVISION 4
BUILDINGS AND STRUCTURES

Sec. 114-741. Location of accessory buildings and structures.

Accessory buildings and structures, including apartment, garages, ~~carports~~, and utility sheds ~~and swimming pools~~, shall not be constructed, erected or placed in any required front or side yard~~, or closer than five feet to any other building or the rear property line~~. Apartments, garage apartments, detached garages and other accessory structures greater than 300 square feet shall be located only in the buildable area of a lot and not in any required yard setback. Utility sheds or storage buildings that do not exceed 300 square feet may be located up to five (5) feet of any rear lot line.

Sec. 114-742. Principal buildings and accessory structures.

In any residential district, a dwelling shall be deemed to be the principal building on the lot on which it is situated. The construction of accessory structures shall not grant any use in property that is not otherwise permitted.

1. Only one principal building shall be located on any single-family or duplex lot.
2. On any single-family or duplex lot, accessory structures shall comply with the following requirements:
   - a Accessory structures 300 square feet or less in floor area may be located in the rear and shall be set back at least five feet (5') from the rear lot line yard provided a minimum 5 foot separation is maintained from other building.
   - b The maximum height of accessory structures 300 square feet or less shall not exceed 12 feet.
   - c Accessory structures greater than 300 square feet in floor area shall be located within the building area.
   - d Accessory structures greater than 300 square feet in floor area shall be similar in design, materials and colors to the principal structure occupying the site.
   - ~~e The floor area of any accessory structures greater than 300 square feet shall not exceed 50 percent of the floor area of the principal building on the site.~~
   - f The maximum height of a detached accessory over 300 square feet of area shall not exceed the maximum height in that zoning district.
   - g A minimum five-foot separation between accessory structures and the principal building on the site shall be maintained.
   - h Accessory structures shall not cause the building coverage on the lot to exceed the maximum building coverage established for the zoning district
   - i Any specific accessory use or structures which are not addressed within this chapter shall not be located on any lot.

A. **General.** Accessory structures and uses are permitted in conjunction with any principal use, provided that they are recognized as clearly incidental and subordinate to the principal use and do not alter the characteristics of the lot(s). The following regulations shall apply to all accessory uses:

1. No accessory structure or use shall be permitted on any lot(s) which does not have an existing or permitted principal use or structure.
2. Unless otherwise specified within this Section:

a. Accessory structures and uses in all zoning districts shall be prohibited in the required front yard or side setback and are to be located behind the principal structure on the lot.

3. All accessory uses are required to be located on the same lot as the principal structure or on a contiguous lot under the same ownership.

4. Except as otherwise specifically permitted within this Article, accessory structures shall be similar in design, materials and colors to the principal structure occupying the site.

5. For double frontage lots and corner lots, accessory structures or uses shall not be located within the required yard setback unless screened by a hedge or wall at least six feet (6') in height.

6. No accessory structure or use shall be permitted in any platted easement, unless otherwise specifically permitted by the easement dedication. Fences may be located within certain easements with the condition that if the fence is required to be removed, the property owner is solely responsible for replacement of the fence.

7. All accessory structures require the issuance of building permits by the City Building Department.

8. Does not involve the conduct of business on the premises of residentially zoned property.

9. Are not of a nature likely to attract visitors in larger numbers than would normally be expected in a residential neighborhood if located in a residentially zoned area.

10. No accessory structure shall be used in any manner for a home occupation, except for the storage of customary homeowner tools and equipment, unless otherwise permitted by this code

B. **Accessory Apartments/Garage Apartments**. One (1) accessory apartment or garage apartment is permitted for properties within residential zoning districts. Accessory apartments are to be located on the ground floor. Garage apartments are in association with a garage, with the apartment located above the garage. Accessory apartments/garage apartments are required to comply with the following regulations:

1. All utilities must be metered through the same meter serving the single-family dwelling unit.

2. The setbacks of the accessory apartment structure shall be the same as the principal building setbacks of the respective zoning district.

3. The building materials and color of the accessory apartment structure shall be similar to the principal residential structure.

4. Secondary kitchens are permitted.

5. The maximum total square footage permitted for the accessory apartment is 800 square feet or no greater than 50% of the total square footage of the principal structure, whichever is less.

6. All accessory apartments shall be annually registered with the City's Building and Zoning Department.

7. The accessory apartment may only be occupied by members of the family of the owner of the single-family dwelling unit.

C. **Detached garages** are permitted in residential zoning districts under the following conditions:

1. The detached garage may not exceed fifty percent (50%) of the total square footage of the principal structure and shall be required to comply with the following conditions:
   a The detached garage shall not cause the building coverage on the lot to exceed the maximum building coverage established for the zoning district;
   b In the event that this code does not establish a maximum building coverage for a zoning district, the maximum building coverage shall be based on the most similar zoning district, as determined by the administrative official;
   c No detached garage shall be used in any manner for a home occupation, except for the storage of customary homeowner vehicles, tools and equipment, unless otherwise permitted by this code

2. The building setbacks of the detached garage shall conform to the principal building setbacks of the zoning district.

3. Detached garage structures shall be similar in design, materials and colors to the principal structure occupying the site.
4. Detached garages that provide an accessory apartment shall be required to meet all the requirements for accessory apartments

D. **Pools,** whether public or private, shall comply with Chapter 3, Articles I and II, The Florida Building Code, all applicable regulations of the Florida Department of Health and Rehabilitative Services and other State agencies, and to the following:

1. Setbacks
   a. Front Yard. Swimming pools or appurtenances thereto shall be prohibited in any required principal front yard building setback.
   b. Corner Side Yard. Swimming pools or appurtenances thereto shall be prohibited in any required side yard building setback.
   c. Rear Yard - The edge of deck for swimming pools shall not be closer than five feet (5') from the rear and side property line.
2. Location in Relationship to the Principal Structure - No swimming pool shall be constructed closer than five feet (5') from any building; provided, however, that this paragraph shall not apply to swimming pools which are an integral part (footers) of new construction and provided that the plans therefore have been certified as structurally sound by a registered architect or engineer.

Sec. 114-743. Erection of more than one principal structure on lot.

In any zoning district except single-family residential districts (R-1 through R-4A), more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided the frontage, yard, lot width and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

Customary accessory buildings shall be permitted for all uses in accordance with the nature of the principal use. However, no accessory structure shall be permitted on any lot which does not have an established principal use conforming to the requirements of this Code; further, no accessory structure shall be permitted on any lot which does not have a permitted principal building.

Sec. 114-744. Exceptions to height regulations.

The height limitations contained in section 114-765 shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(Ord. No. 2352, § 2(5.6.5), 7-13-93)

Sec. 114-745. Portable storage units.

(a) *Definition:* A portable storage unit is any enclosed structure that does not require a building permit, is not required to be anchored according to the city's adopted building codes and is transported by truck or trailer for placement upon residential property for the purpose of short-term storage as defined herein

(b) Vendors of portable storage units, to include lessors, are required to notify the city in writing, by letter, fax or e-mail, of the placement of a portable storage unit within the city limits. Such notice shall contain the residential address of the placement, the name of the occupant at such residential address and the anticipated duration of the placement.

(c) *Time limitation:* A portable storage unit shall be permitted at one residential location for a period not to exceed 30 days in any six consecutive months. Code administrator can extend it for 30 days and anything beyond that has to come before the city commission to grant a 30-day extension upon proof of hardship.

(d) *Placement:* Portable storage units may be placed in any driveway area, but must be a minimum of 20 feet from the edge of any roadway and five from any side lot line.

Section 114-746 Specific terms defined.

Accessory use or structure: A use or structure of a nature customarily incidental and subordinate to the principal use or structure and, unless otherwise provided, on the same premises. On the same premises with respect to accessory uses shall be construed as meaning on the same lot or on a contiguous lot having the same zoning district and in the same ownership. Where a building is attached to the principal building, it shall be considered a part thereof and not an accessory building. Outdoor storage of materials and equipment used in an enterprise and outdoor display of merchandise for sale shall be considered accessory uses where the principal business activity or enterprise is conducted in a building.

Garage Apartment, An accessory building containing a storage area for one or more motor vehicles and one dwelling unit. Said dwelling unit shall not have more than 800 square feet of living space and shall not be marketed as a rental unit.

Accessory Apartment,. Accessory apartments are located on the ground floor and shall not have more than 800 square feet of living space and shall not be marketed as a rental unit.

***Building area*:** the area established by setback requirements.

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

14. RESOLUTION 2007-R-26, U.S. 1 AND NOVA ROAD LANDSCAPE AND IRRIGATION PROJECTS

Attorney Simpson read by short title:

RESOLUTION 2007-R-26

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, RELATING TO THE U.S. 1 AND NOVA ROAD LANDSCAPE AND IRRIGATION GRANTS APPROVING THE EXECUTION OF AN AMENDMENT EXTENDING THE COMPLETION DATE FOR THE GRANTS; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Penny made a motion to **APPROVE** Resolution 2007-R-26, seconded by Commissioner Blais.*

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

15. COMMITTEE REPORTS

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

Commissioner Blais reported that on Wednesday, May 30th he went to Embry-Riddle in regards to the budget situations and this coming Saturday at Embry-Riddle will be How Shall We Grow? meeting which is a whole day affair.

16. COMMUNICATIONS

A. City Manager

Mr. Forte mentioned the Florida International Festival representatives would like to hang a banner on U.S. 1 announcing the Festival and to post the Festival on the digital sign and he needs to know if the Commission is okay with the City doing that. The City would send the banner permit up to the DOT for approval.

There was consensus from the City Commission to allow staff to move forward with the above request from the Florida International Festival Representatives.

Mr. Forte reminded the Mayor and Commission about the Florida League of Cities Conference is August 16-18, 2007; Riverside Drive will be closed between 2nd and 3rd Street from June 15th - 22nd for some curb improvements and driveway cuts; How Shall We Grow? session is this Saturday at Embry-Riddle from 8:00 a.m. to 4:00 p.m.; on Friday the City is going to have a little bit of international fame come upon them on because an Italian car company is participating in an Italian program called *Easy Driver* and they are going to film their spot up Riverside Drive; they are going to pay for two officers to help escort them.

B. City Attorney

None.

C. Mayor & Commissioners

Commissioner Blais reminded everyone that Flag Day is June 14th and also it's the Army's anniversary.

Commissioner Penny thanked everyone who came out and participated in the Master Plan Bus tour this past Saturday and encouraged anyone who didn't attend, there is another meeting June 21st at Sica Hall; after the bus tour and they got into discussion groups, he heard many of the citizens say that they would like to see Code Enforcement have more teeth; they need to be more proactive on some things with Code Enforcement.

Mayor Via mentioned that the budget workshop held at Embry-Riddle went well and the one on the West side as well – a lot of engaging questions were asked; Alex Kish was there to talk about the auditing process; CRA Master Plan bus tour and discussions went well and encouraged all of the Commissioners to attend the June 21st session, either from 2:00 – 4:00 p.m. or from 6:00 p.m. to 8:00 p.m.; How Shall We Grow? session all day this Saturday.

16. ADJOURNMENT

The meeting officially adjourned at approximately 9:50 p.m.

Attest:

Valerie Manning
City Clerk

City of Holly Hill, Florida

Roland D. Via
Mayor