

MINUTES

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

JUNE 28, 2005

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, Gilles Blais, Lou Schmitt and Roland Via.

Also attending were City Manager Joe Forte, City Attorney Butch Simpson, Public Works Director Milton Hallman, Public Safety Director Don Shinnamon, Finance Director Brenda Gubernator, PAL Executive Director Chuck Beach, Community Redevelopment Coordinator Marsha Radulovich and City Clerk Valerie Manning.

B. Invocation

Milt Hallman delivered the invocation.

C. Pledge of Allegiance to the Flag

2. PRESENTATIONS & PROCLAMATIONS

None.

3. CONSENT AGENDA

Minutes of the Comm. Redevelopment Agency Meeting – June 14, 2005
Minutes of the Regular City Commission meeting – June 14, 2005

*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, Blais – Yes, Byrnes – Yes, Mayor Arthur – Yes.

4. COMMITTEE REPORTS

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

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Commissioner Via stated the WAV met for the budget hearing and they discussed mid-term funding options. They had chosen staff to look at special assessments. In other words, a tax of some variety to go back and look at. Also, they were directed to look at a consumptive fee which is so many cents per thousand gallons.

Commissioner Byrnes had no report.

Commissioner Blais gave a handout of the minutes from the Collegiate Events Task Force for the Commissioners to read at their leisure and that will give them an idea of what went on during Black College Reunion (BCR).

Commissioner Schmitt had no report.

Mayor Arthur stated with the MPO they have a transportation reasonable incentive program. The person that came out and did the lobbying was very interesting as a new way of funding. The important part is that they told us to get with our attorney's and find out exactly how they get these things funded. They thought that it would be wise for us to get with our attorney's to go through this document to find. It's sort of a new process they are making things happen with the **SIS** program and different things like that. Their recommendation was for everybody in the cities to get with their attorney. At this time he asked City Attorney Butch Simpson to check on that and get back with the Commission.

Mary Swiderski, 950 E. University Avenue, DeLand, from VCOG, stated she is here as the Executive Director for VCOG as well as for the Volusia League of Cities. Her original task today, however, was on behalf of the Volusia Day Committee. The City of Holly Hill so graciously contributed to those efforts and as their token of appreciation they are presenting the Commissioners and Mayor with a sand globe. She then stated as far as VCOG, the things that they did review last night, they talked about an internal study being completed as far as the progress on Tri-data and where they have come during the last two years, how each of the cities felt about their **FES** program, and the universal tag program in the affect that the last request from VCOG was for the Vets to get with all the proactive group of the tag program and come to some understanding. In addition, they are trying to put together their legislative agendas so if all of the cities could participate in getting their information so that they can present to Volusia League of Cities their suggestions from VCOG. Legislatures start meeting in September now for Committees. VCOG wants to make sure they know what we want before they get there. They also discussed bringing the Commissioners concerns about the Charter Review to VCOG so that questions can be formulated back to the Charter Committee because their input is very important.

5. AUDIENCE PARTICIPATION **Regarding items not on the agenda.**

None.

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6. RESOLUTION 2005-R-26, BOARD OF PLANNING AND APPEALS APPOINTMENTS

Mr. Simpson read by short title:

RESOLUTION NO. 2005-R-26

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, APPOINTING MEMBERS TO THE BOARD OF PLANNING AND APPEALS AND SETTING FORTH THE TERM EXPIRATION DATE FOR SAID MEMBERS; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Via moved to **APPROVE** Resolution 2005-R-26, seconded by Commissioner Blais.*

The motion **CARRIED** 5-0 on roll call: Via – Yes, Blais – Yes, Byrnes – Yes, Schmitt – Yes, Mayor Arthur – Yes.

7. SECOND READING OF ORDINANCE 2728, SMALL SCALE COMPREHENSIVE PLAN AMENDMENT – 1211 GOLF AVENUE – GARY BESSETTE

Mr. Simpson read by short title:

ORDINANCE NO. 2728

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 .9 ACRES LOCATED AT 1211 GOLF AVENUE WITH TAX PARCEL ID 4242-04-21-0141 FROM VOLUSIA COUNTY “MIXED USE” AND “URBAN MEDIUM DENSITY” TO “GENERAL RETAIL COMMERCIAL”; 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** Second Reading of Ordinance 2728, seconded by Commissioner Via.*

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Commissioner Byrnes stated Mr. Simpson, a general question, have you been following the amendment where they are trying to get an amendment to the Florida Constitution to have Comprehensive Plan Amendments voted on in a referendum?

Mr. Simpson stated no, he doesn't know the status of it.

Commissioner Byrnes stated, okay. Apparently, evidently a judge approved it a day or two ago, at least according to an e-mail he received. Does he know if this kind of Ordinance they are getting ready to adopt tonight is the same thing since it is an amendment?

Mr. Simpson stated if it's a Constitutional Amendment then it will have to be approved by the Supreme Court to be placed on the ballot. To his knowledge, that has not happened yet.

The motion **CARRIED** 5-0 on roll call: Schmitt – Yes, Via – Yes, Blais – Yes, Byrnes – Yes, Mayor Arthur – Yes.

8. SECOND READING OF ORDINANCE 2729, REZONING REQUEST – 1211 GOLF AVENUE – GARY BESSETTE

Mr. Simpson read by short title:

ORDINANCE NO. 2729

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2352, THE LAND DEVELOPMENT REGULATIONS, AS PREVIOUSLY AMENDED, BY REZONING APPROXIMATELY .9 ACRES LOCATED AT 1211 GOLF AVENUE TAX PARCEL ID 4242-04-21-0141 FROM VOLUSIA COUNTY “INDUSTRIAL - 1” AND “RESIDENTIAL – 5” TO CC-1 (COMMERCIAL CORRIDOR 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** Second Reading of Ordinance 2729, seconded by Commissioner Byrnes.*

The motion **CARRIED** 5-0 on roll call: Schmitt – Yes, Byrnes – Yes, Blais – Yes, Via – Yes, Mayor Arthur – Yes.

9. SECOND READING OF ORDINANCE 2730, AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS – STREET SIDE YARD SETBACKS

Mr. Simpson read by short title:

ORDINANCE NO. 2730

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE CONSOLIDATED LAND DEVELOPMENT REGULATIONS, CHAPTER 78 GENERAL PROVISIONS AND CHAPTER 114. ZONING REGULATIONS, ADDING STREET SIDE YARD SETBACKS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Via moved for **DISCUSSION** Second Reading of Ordinance 2730, seconded by Commissioner Blais.*

Mr. Forte stated they always talked about the side yard set backs and it's not necessary in terms of fencing, it's in terms of other things like, as Mr. Buchanan had explained at the last City Commission meeting, how far back a home can be set on a property. If they have two front yards, they have to be set a greater distance back off the streets than they would if one of them had a side yard. He thinks it goes from 35 feet as a front yard down to 20 feet a street side yard. More specifically, the scenario that has come to light involves the fence issue. They have talked about this a couple of times but the one thing that they didn't omit but normally a person could have a fence if they are in a side yard and if it was a six foot fence, it would only be able to go the front of the property. (At this time Mr. Forte was drawing a configuration on the overhead for the Commissioners and the Mayor to show them an example).

Mayor Arthur stated this is ridiculous. This is something they don't want to get into. It is no different than saying, "Okay, the neighbors can build a six foot fence," which the City never wanted, up past the original house. What is the difference in this person right here having it going forward and ending as it does where it is right now? The same problems exist. He doesn't think this is something they should get into.

Commissioner Byrnes asked if he thought they should handle this through the special exception process?

Mayor Arthur stated he will tell them the truth, to him, when he goes to places that he has seen this happen, it actually blocks the view of someone wanting to make a traffic turn or doing things. Six foot fences are ugly in the front yard. The City staff has made other people take them down when they were there and told them to cut them down to the required length and it has been done recently.

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Mr. Forte stated they are not on that item. This is just one segment of a street side yard set back. A lot of the issue deals with how far the house can be set back from a street side yard. Right now it's 35 feet which pushes their house, gives them a very small back yard. If they had a street side yard set back it would be 20 feet and that would be permissible under a street side yard set back.

Mayor Arthur stated he thinks they are doing just fine and they shouldn't touch it.

Commissioner Via stated now a four foot fence is allowed, correct Mr. Forte?

Mr. Forte stated, yes.

Commissioner Via stated but a six foot is not.

Mr. Forte stated, yes. This discussion is not solely based on a fence. What he would like to suggest, it seems like they are leaning towards denying this, he would rather they table this item until Mr. Buchanan comes back because he has some other reasons that made sense last week. Perhaps they can table this until the next City Commission meeting and then Mr. Buchanan can respond to other questions they may have.

Commissioner Via stated he will withdraw his motion to table it.

*Commissioner Schmitt moved to **TABLE** the Second Reading of Ordinance 2730, seconded by Commissioner Via.*

The motion **CARRIED** 5-0 on roll call: Schmitt – Yes, Via – Yes, Byrnes – Yes, Blais – Yes, Mayor Arthur – Yes.

10. VARIANCE REQUEST – 165 WALKER STREET – ARLEEN J. REDMOND

*Commissioner Via moved for **DISCUSSION** the variance request of 165 Walker Street, seconded by Commissioner Blais.*

Mayor Arthur stated this is a mistake. It's a real mistake. He feels for the lady and all that stuff but it's not right. He walks down the streets, he goes down them and he sees this and it's not what he had envisioned when the City set things in order. He doesn't see an exception to it. He doesn't see where it would benefit anybody. He can see where it would bother the neighbors.

Commissioner Byrnes stated the applicant only wants to keep the fence the way it is as shown in the picture.

Mayor Arthur stated he knows what she wants to do. There are neighbors who are involved. If they go down the street and look at it, it's out of place, it's not good. City staff has told other people to take them down when they have done something like this. If the Commission wants a special exception, they may as well pass the last Ordinance that they tabled or just throw out all the Ordinances on the books referring to this type of situation.

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Commissioner Via stated each of the contiguous properties have a letter in here that don't have a problem with her fence.

Mayor Arthur stated he feels one of the biggest mistakes he made since he sat in this seat, they let George Fries build a garage closer to the set back on a main street. To this day, every time he goes by there, Mr. Fries had all the land he needed to do that and what the Commission affectively did, is take away the whole streets view of the river by allowing a special exception. That was a mistake! They shouldn't have done it. The Commission fell for it. He feels that he made a big mistake on that project and he believes that this is a mistake as well. He believes it infringes on other peoples rights. Someone can come in and say, "I can't do it. How come she can do it? Why can't I do it on the other side?" It's something he doesn't think they should get themselves involved with. He was mad about the fence because they have rules, they have a department where people can come and pull permits to do something like that, and it's not being done. It's being bypassed and the City does have rules for this type of thing. There were no permits pulled to do this.

Arleen J. Redmond, 165 Walker Street, stated she submitted a survey that has a piece of the six foot fence that was there when she bought the property. Along with her submittal, she has letters from her neighbors that say they don't have a problem with the fence.

Mr. Forte stated this fence has been up for about three to four years.

Commissioner Via stated City staff has brought forth the ability for them to have variance requests and he thinks it's based on situations like this. He doesn't think she intended to do anything wrong. He is not as much for allowing other people to do that in other areas, Mayor, but in this particular case, he doesn't have a problem with it.

Mayor Arthur stated well then they shouldn't have a problem anywhere.

The motion **CARRIED** 3-2 on roll call: Via – Yes, Blais – No, Schmitt – Yes, Byrnes – Yes, Mayor Arthur – No.

11. SECOND READING OF ORDINANCE 2731, REZONING REQUEST – 471 – 3RD STREET – WAYNE MEDLIN

Mr. Simpson read by short title:

ORDINANCE NO. 2731

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2352, THE LAND DEVELOPMENT REGULATIONS, AS PREVIOUSLY AMENDED, BY REZONING THREE PARCELS OF APPROXIMATELY 2.3 ACRES LOCATED AT 471 AND 475 THIRD STREET TAX PARCEL ID 5337-08-00-0030, 5337-08-00-0040, 5337-08-00-0060, FROM R-5 (TWO-FAMILY RESIDENTIAL DISTRICT) TO R-4A (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Byrnes moved to **APPROVE** the Second Reading of Ordinance 2731, seconded by Commissioner Via.*

The motion **CARRIED** 5-0 on roll call: Byrnes – Yes, Via – Yes, Schmitt – Yes, Blais – Yes, Mayor Arthur – Yes.

12. SURPLUS CITY EQUIPMENT

Mr. Forte stated this is for the laptops that came out of the Police Department. There are four Dell computers and four Gateway computers and then there is some radar equipment. Staff is asking to go ahead and surplus this equipment and then to dispose of it in a manner that the City Manager can get the highest return to the City of its value. What they are planning on doing with the computer equipment, at least on the Dell's, Scott Gutauckis had done some research and estimated that they would be worth about \$400 if they went out onto E-Bay. So they were going to announce a date for anybody to go ahead and bid a minimum of \$400 on up on that and if they don't sell then they would go ahead and put them on E-Bay. As far as the other equipment, they will figure out how they can sell those off and get the highest dollar for them.

*Commissioner Via made a motion to approve for **DISCUSSION**, seconded by Commissioner Schmitt.*

Commissioner Via stated this is a question for Chief Shinnamon and Chuck Beach. This was brought up by another former baseball coach. Is it possible one of those radar units could be used in their baseball program when they are working with the pitchers so they have the ability to check their speed?

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Chief Shinnamon stated he never personally used one for that. Although, he has seen it done and they are certainly available to the Recreation Department.

Commissioner Via stated this is a valuable tool for pitchers. It's not just a vanity thing. "Chuck, would we use it?"

Chuck Beach, PAL Executive Director, stated he doesn't know if they would want to put a gun on a ten year olds arm just to prove a point.

Commissioner Via stated he was thinking more towards field four and the fifteen year olds. He is just saying that it would be something that they would have.

Mr. Beach stated if it's a handheld radar then they could stand behind the pitcher and it will still work.

The motion **CARRIED** 5-0 on roll call: Via – Yes, Schmitt – Yes, Blais – Yes, Byrnes – Yes, Mayor Arthur – Yes.

13. STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT (USDHS)

Mr. Forte stated this is a grant request that Chief Shinnamon had submitted. The application is being made to increase staffing at Station #11 from three personnel to four personnel. It would provide a 90% grant for the first year, 80% in year two, 50% in year three, and 30% in year four with a maximum allowance of \$100,000. If the grant doesn't come through, it's not a position that the City is going to budget.

*Commissioner Schmitt moved to **APPROVE** the application to the Department of Homeland Security for funding to hire one firefighter under the SAFER grant program, seconded by Commissioner Blais.*

The motion **CARRIED** 5-0 on roll call: Schmitt – Yes, Blais – Yes, Byrnes – Yes, Via – Yes, Mayor Arthur – Yes.

14. COMMUNICATIONS **A. City Manager**

Mr. Forte stated he received a late phone call today from Deanie Lowe and she had asked him to present to the Commission a request to support a letter to go to the County Council supporting or encouraging them to support the purchase of these Diebold touch screen voting machines. After he spoke with her, he then called the County Manager and said that he feels he is sort of getting stuck between a County issue and an Elections Department issue and the County Manager said we pretty much would be. The County staff recommends buying the Diebold touch screen units as well. There are some members of the County Council who are holding off for this auto-mark unit that has a paper ballot that's attached to it. The State Law doesn't require a paper ballot. The County Manager's recommendation to him was stay neutral on it. It's a County Council

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decision. One of the concerns that Deanie Lowe had was that if this fails tomorrow, there will be lawsuits filed by the American Disabilities Act and she is concerned that the municipalities will get dragged into that lawsuit. However, the City's role is we contract with the Elections office for this service.

Commissioner Byrnes stressed his concerns about this as well as what had happened with the 2000 election.

*There was **CONSENSUS** from the Commissioners and Mayor to stay neutral regarding the purchasing of the Diebold touch screen voting machines.*

B. City Attorney

None.

C. Mayor & Commissioners

Commissioner Blais stated Friday, July 1, 2005 is the City's birthday! Over the past week, his former English teacher at Mainland High School, Hugh Adams, a WWII Veteran, passed away.

Commissioner Schmitt stated he attended a public service meeting today in Daytona Beach City Hall regarding FPL and their rate increase.

Commissioner Via stated he would like to have a board appointment workshop sometime in the future. He mentioned that the All-Star baseball kids will be at Java Junction this Saturday from 9-12 p.m. He thanked all those who have contributed to the All-Star baseball kids as they travel for the State finals. He expressed his thoughts and prayers for Nicholas Zinna and his family members and he congratulated Chief Shinnamon and his staff on how well they all came together to help Nicholas. The funeral service will be this Thursday and it will be at Prince of Peace Church at 9:00 a.m. He was a great seventeen year old kid. He then stated his concerns about the Humane Society and them saying that they have a shortfall of income of \$400,000.

Mayor Arthur stated Matt Avery, a young kid who came in 28th in the U.S. Open. He is 21 years old and the first amateur. A local boy who plays at the Riviera Club.

15. ADJOURNMENT TO WORKSHOP

The meeting officially adjourned at approximately 8:20 p.m.

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

William D. Arthur
Mayor