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

July 11, 2006

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 7:03 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, Assistant City Attorney Scott Simpson, Public Safety Director Don Shinnamon, Community Development Director/City Planner Doug Gutierrez, Public Works Director/City Engineer Christ Hurst, Finance Director Brenda Gubernator, Assistant Finance Director Susan Worde, and City Clerk Valerie Manning.

B. Invocation

Mayor Via delivered the invocation.

C. Pledge of Allegiance to the Flag

2. PRESENTATIONS & PROCLAMATIONS

None.

3. CONSENT AGENDA

- Representation regarding employment/use of illegal aliens contract
- 2006-2007 Fiscal Year Employee Holiday Calendar
- Surplus Kitchen items from Sica Hall

*Commissioner Reed requested to **PULL** the item regarding the employment/use of illegal aliens contract for a brief discussion.*

Mayor Via asked for a motion for approval for the rest of the Consent Agenda items.

*Commissioner Blais moved **APPROVAL** of the items on the consent agenda, seconded by Commissioner Anderson.*

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

The Commission now discussed the item regarding the employment/use of illegal aliens contract.

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Commissioner Reed stated he doesn't have any problem with the City staying out of the business of working with contractors that have illegal aliens. But there are two provisions on this that he thinks are almost over and above what we need to do as a City and that would be Item #3, that *the contractor's employment policy is that upon learning that an employee is an illegal alien, the employee shall be immediately terminated*. While that employee may not be allowed to work on City property, he doesn't feel like it's the City's business to tell that contractor who he is supposed to employ or not employ. Commissioner Reed stated while he knows that these are illegal aliens they are talking about, they have broken the law, it has been the City's own experience that when we call INS about an illegal alien, what happened?

Mr. Forte stated no response.

Commissioner Reed stated no response. He feels that Item #3 is not the City's obligation to tell a contractor who he may or may not employ for other jobs. The City can tell the contractor that we don't want them on our jobs and that's fine. And on Item #6, that *the contractor shall terminate all contractual relationships with any subcontractor upon learning that the subcontractor employs or otherwise utilizes illegal aliens*. Once again, while the subcontractor should never be allowed to have illegal aliens on a City job, to have a contractor have to terminate all contractual relationships with the subcontractor, that they may be doing many other jobs, that the City has no business with, he thinks those two items should be stricken from and then he can support the rest of it.

Mayor Via suggested they reword them instead of striking them. And the new language read as follows:

- 3) That the Contractor's employment policy is that upon learning that an employee is an illegal alien, the employee shall be immediately removed from the City job.
- 6) That the Contractor has and shall maintain a screening process for retaining subcontractors to perform services for the Contractor; and the Contractor assures that all subcontractors will not employ or otherwise utilize illegal aliens on City jobs, and upon learning the subcontractor employs or otherwise utilizes illegal aliens, the subcontractor shall remove the illegal alien from the City job.

Commissioner Blais suggested that the Police Department ought to be notified on these individuals that are illegally aliens and a record check be made.

Chief Shinnamon stated he doesn't know what purpose it would serve to identify them. What the City Manager said earlier is correct. INS was notified in a situation sometime back and no response was taken on their part. INS won't take custody of them and the City can't keep them.

*Commissioner Reed moved **APPROVAL** for the employment/use of illegal aliens contract, seconded by Commissioner Penny.*

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

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

Robert McPhee, 1128 Cave Avenue, spoke about Mr. Hodges building a house on Cave Avenue and the dumpster that is there, there is a house that needs to be demolished on Cave Avenue, the flooding issues, and the diagrams that the Krallinger's have been showing the residents over there for development of warehouses. Mr. McPhee wants to know if the City is doing anything about Cave Avenue and if the Commission knows anything about the diagrams that the Krallinger's have been showing to the residents?

Mayor Via stated there has been no action taken on that piece of property for warehouses by Mr. Krallinger and neither him or the Commissioners have seen anything from Mr. Krallinger in regards to moving forward with the warehouses on Cave Avenue.

Mr. Forte stated there is no activity going on from the Krallinger's on that property. The only one doing work there is Mr. Hodges who is building a house. The only thing the Krallinger's told me is that they communicated with Mr. Hodges was to create between the two houses a shared stormwater pond. Outside of that, the Krallinger's have not submitted any plans, they've walked off the property and they are not building anything right now.

Mr. McPhee stated they gave him a plan that they are going to build a retention pond.

Mr. Forte asked how long ago was that.

Mr. McPhee stated the 4th of July.

Mr. Hodges, 1141 Cave Avenue, stated the only thing he and Mr. McPhee were concerned about is when is the next meeting going to be held with the Krallinger's. Mr. Hodges stated he has spoken with Mr. Forte and he said that when the next meeting is held that they would be notified and he also spoke to Commissioners Reed and Anderson. Mr. McPhee is saying that the Krallinger's have drawn up a blueprint and Commissioners Reed and Anderson didn't know anything about it and that's why they are here tonight to see if anyone has received the blueprint of what their intentions are?

The Mayor and Commissioners have not seen any blueprints from the Krallinger's.

Mr. Forte asked how long ago was that.

Mr. Hodges stated it was about two weeks ago.

Mr. Forte stated he has not seen anything from the Krallinger's.

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James Robinson, 1332 Riverside Drive, spoke about downloading the City Commission meetings on the Internet and thinks that's a great idea. Mr. Robinson spoke briefly about Hollyland Park in relation to Arthur Kowitz's statements and the suggestion about moving the ball fields over to the LPGA Blvd., salvage yard and he thinks that's one of the worst ideas he ever heard.

Jennifer Shaw, 1249 Charter Oaks Circle, spoke briefly about the parking at Parks Seafood Restaurant and how there is still no parking available for the citizens to enjoy the park and hopes that the City will find a solution for that. She asked about the lighting in the parking lot and at whose expense was it done?

Mayor Via stated yes, there is lighting in the parking lot and we used, used lighting that we had from another park and installed them.

Jim Legary, 342 Burleigh Avenue, stated he didn't get a copy of the *Heartbeat* so he doesn't know exactly what it is that they are doing with the visioning situation and he was wondering if somebody can clarify that for him.

Mr. Forte stated the *Heartbeat* should be with their next bill statement.

Mayor Via stated it's coming out on the 13th and what kind of language did staff use to identify the vision statement.

Mr. Forte stated it basically just says that the City Commission is asking for help in writing a vision statement and he asked the people to send their statements either by mail or e-mail to him and then he copied from the Internet some criteria of how to think about writing a vision statement.

Commissioner Reed asked if they could move Item #7 up on the Agenda. There was consensus from the Commission to move that item up.

7. PUBLIC HEARING – SECOND READING OF ORDINANCE 2773, TRANSPORTATION IMPACT FEE

Mr. Simpson read by short title:

ORDINANCE NO. 2773

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA CREATING A TRANSPORTATION IMPACT FEE; PROVIDING FOR DEFINITIONS; PROVIDING FOR HOW THE FEE WILL BE CALCULATED; PROVIDING FOR WHEN THE FEE SHALL BE PAID TO THE CITY; PROVIDING FOR EXEMPTIONS TO THE IMPOSITION OF THE FEE; PROVIDING FOR FEE CREDITS; PROVIDING AN IMPACT FEE SCHEDULE; PROVIDING

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FOR APPEAL AND ADMINISTRATIVE REVIEW OF DETERMINATIONS REGARDING THE FEE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Reed moved for **APPROVAL** the Second reading of Ordinance 2773, seconded by Commissioner Anderson.*

Mayor Via opened public participation.

Greg Blosè, Director of Government Affairs of Volusia Home Builders Association (VHBA) 3520 West International Speedway Boulevard, Daytona Beach, gave a brief presentation and stated that the VHBA has reviewed the City of Holly Hill's transportation impact fee and after detailed review the VHBA submitted a list of concerns to the City. As of this evening, the VHBA still has some areas of concern regarding the impact fee study regarding credits.

Mr. Forte stated one thing he will recommend to the Commission is under the area where it talks about credits, it gives the Commission the ability to implement credits but that's an item that they have to workshop and it will take a little bit of time. He spoke to Scott Simpson earlier and what he has suggested and they both recommend is that they add language into that area along the lines that credits will be established by Resolution and then they can workshop it over the next 90 days before this becomes final.

Mr. Blosè agreed with that.

Commissioner Reed made an amendment to his original motion to establish a Resolution to outline the credit formula, seconded by Commissioner Anderson.

Mr. Blosè stated one of the other things the VHBA was focusing on was the average trip length figures. The VHBA is concerned because when they read the language inside the study, it appears that the consultant, in reference to calculating what the average trip length is for the City, makes it look like the City maybe calculating miles traveled outside of City limits. He is not sure if that's 100% true or not.

Shawn Collins, Ghyabi and Associates, 1459 North U.S. 1, Suite 3, Ormond Beach, gave a brief presentation. In response to the average trip length, Mr. Blosè is correct, they have been going back and forth over a few issues and that was one of them. There are two sides to a trip; the origin and your destination; all trips are round trips when you are talking about models. Mr. Blosè used other jurisdictions as an example when they are putting their impact fees together and more specifically he spoke about Daytona Beach. In my comments that Mr. Blosè read, Daytona Beach, for sure, a much more mixed use community. Because of the proximity to Holly Hill to Daytona Beach, those same destinations that the city's residents in Daytona Beach go to, pretty much are identical to the ones the residents here in Holly Hill go to. When they are putting together an impact fee rate, they just can't consider the portion of that trip that's only on Holly Hill's streets or within the City of Holly Hill's boundaries. When the Florida Department of

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Transportation (FDOT) is putting together a road program or when the County is putting together a road program, they don't just stop at the boundaries of Holly Hill when they are talking about widening Nova Road or U.S. 1 or LPGA Blvd. One thing that they do in this impact fee analysis is that they don't count the end of the trip when they are coming back and they have to do it that way because they end up double counting.

Mayor Via closed public participation.

Attorney Simpson stated Mayor, he wants to make sure that as this Ordinance is amended, based on the motion that's made, that they get the right language in there and at the end of Section 9(b)(3), that they will add the following statement: "*A criteria for determining credit shall be established by Resolution of the City Commission.*"

Mayor Via stated, yes.

Commissioner Reed agreed.

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

5. PUBLIC HEARING – SECOND READING OF ORDINANCE 2771, POLICE AND FIRE IMPACT FEES

Mr. Simpson read by short title:

ORDINANCE NO. 2771

AN ORDINANCE TO BE KNOWN AS THE CITY OF HOLLY HILL PUBLIC SAFETY IMPACT FEE ORDINANCE; PROVIDING DEFINITIONS, RULES OF CONSTRUCTION AND FINDINGS; ADOPTING IMPACT FEE RATE STUDIES; PROVIDING FOR THE IMPOSITION OF FIRE IMPACT FEES ON ALL FIRE IMPACT CONSTRUCTION WITHIN THE CITY OF HOLLY HILL; ADOPTING A SCHEDULE OF FIRE IMPACT FEES AND CLASSIFYING USES OF PROPERTY SUBJECT TO SUCH IMPACT FEES; PROVIDING FOR THE CALCULATION OF ALTERNATIVE FIRE IMPACT FEES; PROVIDING FOR THE USE OF FIRE IMPACT FEE MONIES COLLECTED; PROVIDING FOR THE IMPOSITION OF LAW ENFORCEMENT IMPACT FEES ON ALL LAW ENFORCEMENT IMPACT CONSTRUCTION WITHIN THE CITY OF HOLLY HILL; ADOPTING A SCHEDULE OF LAW ENFORCEMENT IMPACT FEES AND CLASSIFYING USES OF PROPERTY SUBJECT TO SUCH IMPACT FEES; PROVIDING FOR

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THE CALCULATION OF ALTERNATIVE LAW ENFORCEMENT IMPACT FEES; PROVIDING FOR THE USE OF LAW ENFORCEMENT IMPACT FEE MONIES COLLECTED; PROVIDING FOR EXEMPTIONS IN CONNECTION WITH PUBLIC SAFETY IMPACT FEES; PROVIDING FOR CHANGES OF SIZE AND USE; PROVIDING FOR PAYMENT AND COLLECTION OF PUBLIC SAFETY IMPACT FEES; PROVIDING FOR APPLICABILITY; PROVIDING AN ALTERNATIVE COLLECTION METHOD FOR PUBLIC SAFETY IMPACT FEES; PROVIDING FOR CREDITS FOR DEVELOPER CONTRIBUTIONS; PROVIDING FOR REVIEW HEARINGS; REQUIRING REVIEW OF THE IMPACT FEE STUDIES AND THE PUBLIC SAFETY IMPACT FEE ORDINANCE; DECLARATION OF EXCLUSION FROM THE ADMINISTRATIVE PROCEDURE ACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR NOTICE OF PUBLIC SAFETY IMPACT FEE RATES AND PROVIDING AN EFFECTIVE DATE.

Commissioner Penny moved for APPROVAL the Second reading of Ordinance 2771, seconded by Commissioner Blais.

Commissioner Reed stated he wants the Mayor and the Commission to really consider what they are doing here. With the methodology, the way these impact fees are paid; they are paid at the building permit. He believes this motion should be amended so that they are paid upon certificate of occupancy. He thinks it's the only fair way to implement an impact fee. An impact fee is implemented to take care of the extra cost of what the growth is going to cost them. When they exempt the largest site, the largest construction site in the City simply because the previous Commission had not thought of impact fees and this is no slam on the previous Commission, at that time they had their reasons. He doesn't think that anybody develops a project like Marina Grande because of impact fees. They build it because the real estate is right. These impact fees, if they do not change this to certificate of occupancy as opposed to a building permit, will only fall on the single home builder, the small contractor and it will not fall on the large contractor. There is a great deal of inequity there. This is not a punishment for Marina Grande. That development is going up and it's going to be fine but the impact on the City's police and fire and roads and parks is going to be there. He is not responsible for any obligations made by other people. He is only trying to do what's right and fair to every citizen and not just some of them. If they don't want to have impact fees on the largest project in the City, let's not have impact fees on anybody. It's been suggested to him that maybe they can implement these fees at closing time, maybe the buyer can pay these fees and he guesses it turns out that it's not kosher in Florida. The only alternative is to simply change the wording to where they pay the impact fee at certificate of occupancy.

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Commissioner Penny stated he agrees with Commissioner Reed that they need to be fair and equitable. However, the buildings that are under construction right now, many of them have already been purchased and contracts have already been entered into, sales prices have already been negotiated and locked in. Who is going to pay the fee?

Commissioner Reed asked who is the certificate of occupancy issued to.

Mr. Forte stated the developer.

Commissioner Penny asked, and is that fair? Once someone has entered into a legal binding contract between a developer and a homeowner, what is fair? How do you handle that? That's his problem.

Commissioner Reed stated what he is weighing, is the unfairness...to what Commissioner Penny contends is unfair to the developer, he is weighing...

Commissioner Penny stated he didn't say it's unfair to the developer, he is just saying it's unfair to all parties concerned.

Commissioner Reed stated well it's not unfair to the purchaser because he's already agreed on a price. His price isn't going up.

Mayor Via stated excuse him for interrupting but it's just a point of order and before they go any further, a motion was made and a second to that, and now, perhaps, they are talking about an amendment to that motion that Commissioner Reed would like to put to it to make it due at the time of certificate of occupancy.

*Commissioner Reed made an **AMENDMENT** to the original motion to change this from a building permit payable to a certificate of occupancy payable, seconded by Commissioner Anderson.*

Mayor Via stated this is borne of two major projects that they have in town. He would rather look at project one, which is going up now as being a two-part project. Is Commissioner Reed talking about changing the payable to all four buildings?

Commissioner Reed stated he thinks the fairest way would be to change it to all four buildings but is there a way to do the other two towers and have impact fees on them?

Commissioner Anderson asked can they charge the last two towers and not the first two.

Mr. Forte stated they can implement it whenever they chose providing it's within the law and Attorney Simpson will have to confirm that but he thinks they can do it at anytime that they say.

Commissioner Reed stated this is not a punishment for Marina Grande. It's doing what's best for the City because the City is going to need the money because the impact is coming.

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Commissioner Penny stated it seems to him the fair thing to do, if it's legal, would be anything that's under construction now would be exempt from this and anything that comes out of the ground in the future, after the deadline – October 15th – should be...that would be the fairest way. The third and fourth tower have not been sold in his understanding. The developer can adjust the prices to absorb the impact fee. That is the fairest way in his mind.

Mr. Forte stated there have not been any permits pulled for buildings three and four.

Commissioner Penny stated he feels buildings one and two have already been negotiated and doesn't think that the impact fees should be imposed upon them. Any new construction after October 15th, he thinks if they are looking to be the fairest, they should be subject to the impact fees and he thinks that's a compromise.

Mayor Via stated but subject to the impact fee based on certificate of occupancy or at permit...

Commissioner Penny stated at permit time. He believes they incur public safety expenses when the permits are pulled.

Mayor Via stated on the building permit side, even if it wasn't the certificate of occupancy and it was still a building permit, and it's October 15th, does he believe that towers three and four should be, even at building permit, there should be the impact fee?

Commissioner Penny stated, yes. Mr. Forte said that there is no building permit issued yet.

Commissioner Reed stated yes but that does not mean that they will not come in and pull a permit simply to save the impact fee.

Commissioner Anderson stated she can see that happening very easily.

Commissioner Reed stated if they really want to work a compromise out, why leave a loop hole?

Mr. Forte stated they would probably, in the case of Marina Grande, certificate of occupancy in five floor increments. The entire building will be completed and drywalled and under current fire safety codes and then they will complete them in five floor increments.

Mayor Via asked is the certificate of occupancy when the person *buys* the property or when they say they can move in.

Mr. Forte stated, no. It's when it's able to be *occupied*. They get the certificate of occupancy first and then they can go to closing. They can't close without a certificate of occupancy.

Commissioner Reed stated it's not the building that impacts you so much as it is the people that are in the building.

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Commissioner Penny stated if the whole intent is for the development to pay for itself, he truly believes that they are impacted when the permit is pulled. They can't legislate for one...they can't make these rules for one person. If they are going to be fair, they've already established that fair is that they are going to give a deadline date of October 15th. If the developer is a good business man which he would suspect that there is going to be a rush of building permits. It happens in every city that imposes impact fees.

Mayor Via stated there's fairness but on the other side when they are talking about wanting to collect the fees...

Commissioner Reed stated, and the *need* for the monies.

Mayor Via stated doing it at the time of the certificate of occupancy does resolve that.

Commissioner Penny stated he would like to capture the funds if possible but if they are talking what's fair, him and Commissioner Reed are going to disagree on what we believe fair is.

Commissioner Blais stated that he would like to see the fees collected at the time of getting a building permit.

Mayor Via stated the contention would be, if we did this by...even if they said buildings three and four would be by building permit, it could be that they come in early to get the permits.

Commissioner Penny stated but if they change it to certificate of occupancy then they are going back and penalizing towers one and two.

Mayor Via stated, no.

Commissioner Penny stated yes you are.

Commissioner Reed stated your not penalizing, you are collecting the impact fee.

Commissioner Penny stated no you can't. It's either permit or occupancy. What's fair is fair.

Mayor Via stated well, that provides a problem for him because he believes there is a contractual obligation that can't be negated on buildings one and two.

Mr. Forte stated he thinks there is another element that they have to discuss that they haven't talked about along these lines is that they, at a previous workshop, they opted not to impose it upon Marina Grande and Black River, LLC. The first thing that they are going to agree to or he thinks he hears the Commission agree to is that they are willing to impose it upon those properties upon one of two conditions. Either upon certificate of occupancy or upon permit. The discussion about not imposing it altogether is gone, correct? And now they are talking about how can they capture that money either by permit or by closing.

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Commissioner Reed stated yes, he thinks that is rather accurate. The first time they talked about this in a workshop it was a very short discussion.

Mayor Via stated, right. Here's part of the difference in him thinking about it and doing this. When they talked about doing that, the units were selling for a certain price and as they all know the market has gone a whole lot higher and those units are selling for a whole lot more. It's still not the even playing field they had. The reason why they are doing these impact fees is to resolve impact differences that they have for the whole City. However, they have also discussed and said October 15th...its difficult Commissioner Reed because if those guys bring in the building permits, he still thinks that the City stands as a business commitment that way to them. This was his previous commitment.

Commissioner Reed stated they are talking about something here...and he honestly believes that this may be the only large scale project they will see in their lifetimes.

Commissioner Anderson stated she thinks they are letting something get away that they definitely need.

Commissioner Reed stated that's what he is trying to say. He thinks in hindsight, they will realize that the City has incurred a tremendous amount of expense, they won't have captured those impact fees and then in that hindsight, maybe our discussion here tonight will seem sort of silly.

Mayor Via stated the motion on the floor is for an amendment which says to change from building permit to certificate of occupancy.

The motion **FAILED** 2-3 on roll call: Reed – Yes, Anderson – Yes, Blais – No, Penny – No, Mayor Via – No.

Mayor Via stated now they will go back to the main motion which is keeping the payable at time of building permit.

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

Mr. Forte stated he wanted to clarify something. This was just passed and this implements the impact fee upon the issuance of a permit after October 15th. Now if, Marina Grande developers come in after October 15th, they were told previously that they would be exempt from this so is he to now understand that if they come in after October 15th they are not exempt, they are responsible for an impact fee? Is that correct?

Mayor Via stated, yes.

Mr. Forte stated it would only impact them on buildings three and four.

Mayor Via stated, yes.

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Mr. Forte stated so they would be responsible...if they don't pull their permits by October 15th, they will be responsible for it; any and all impact fees that are in place. From a legal aspect, the way this is passed that it says that it's upon permit, anybody that comes in after October 15th, regardless of who they are, will be subject to these fees because there is nothing *exempting* anybody from them.

Mayor Via stated the City has given them time to do the permit.

Mr. Forte stated they're getting the same 90-day notice that anybody else would get to pull their permits.

Mayor Via stated he has no problem with that.

Mr. Forte stated so by taking no action on it, it means that anybody who doesn't pull a permit before October 15th will be responsible for any and all impact fees.

6. PUBLIC HEARING – SECOND READING OF ORDINANCE 2772, PARKS AND RECREATION IMPACT FEES

Mr. Simpson read by short title:

ORDINANCE NO. 2772

AN ORDINANCE OF THE CITY COMMISSION OF HOLLY HILL, FLORIDA, TO BE KNOWN AS THE HOLLY HILL PARKS AND RECREATIONAL FACILITIES IMPACT FEE ORDINANCE; PROVIDING DEFINITIONS, RULES OF CONSTRUCTION AND FINDINGS; ADOPTING A CERTAIN IMPACT FEE STUDY; PROVIDING FOR THE IMPOSITION OF PARKS AND RECREATIONAL FACILITIES IMPACT FEES ON ALL RESIDENTIAL CONSTRUCTION OCCURRING WITHIN THE CITY; DEFINING RESIDENTIAL CONSTRUCTION; PROVIDING FOR THE CALCULATION AND USE OF PARKS AND RECREATIONAL FACILITIES IMPACT FEES COLLECTED; PROVIDING FOR THE CALCULATION OF ALTERNATIVE PARK AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR EXEMPTIONS IN CONNECTION WITH PARKS AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR CREDITS FOR DEVELOPER CONTRIBUTIONS; PROVIDING FOR THE PAYMENT AND COLLECTION OF THE PARKS AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR APPLICABILITY; PROVIDING AN ALTERNATIVE COLLECTION METHOD FOR PARKS

**AND RECREATIONAL FACILITIES IMPACT FEES;
PROVIDING FOR REVIEW HEARINGS; REQUIRING
REVIEW OF THE IMPACT FEE STUDY AND THE PARKS
AND RECREATIONAL FACILITIES IMPACT FEE
ORDINANCE; DECLARATION OF EXCLUSION FROM
ADMINISTRATIVE PROCEDURES ACT; PROVIDING
FOR SEVERABILITY; PROVIDING FOR NOTICE OF
PARK IMPACT FEE RATES AND PROVIDING FOR AN
EFFECTIVE DATE.**

*Commissioner Penny moved for **APPROVAL** the Second Reading of Ordinance 2772, seconded by Commissioner Blais.*

Mayor Via realized that they forgot to open up Items #7, #5 for public participation. Therefore, the Commission needs to go back and open up for public participation at this time.

Attorney Simpson stated he would suggest that they open and close the public hearing and at the conclusion of the public hearing, they would make a new motion to adopt the Ordinance or not to adopt the Ordinance that they previously passed.

**Mayor Via opened public participation for Item #7, Ordinance 2773 –
TRANSPORTATION IMPACT FEE**

Jim Legary, 342 Burleigh Avenue, stated he admires members of the Commission who want to be fair. However, he doesn't feel that the citizens were fairly treated by the whole process of the Marina Grande to begin with. He thinks they got worked. He thinks the kinds of fees that they are discussing here are incidental to whatever is going on at the Marina Grande. He thinks it would be a good way for this Commission to correct the ill feeling that he see in many areas regarding this whole project. We that have been here for however long we've been here, are going to be paying out the nose for a great deal of this. He thinks these fees would be well used and used throughout the community because the community is going to pay for it.

James Robinson, 1332 Riverside Drive, stated he inherited his mother's house and in 2004 he lost his homestead exemption. Mr. Robinson spoke about the taxes on the house and how they have been raised over the years. The fees are real. The taxpayers are going to pay it sooner or later and he is getting really stiffed and he doesn't like it and he wishes the Commission would change their mind because there is more than one fair thing to do. Maybe the past Commission made a mistake but there must be some way to adjust between what's been sold and what hasn't been sold. He thought the Commission was going to have a compromise which would have at least eased some of his tax burden.

Micky Peterson, 801 Ridgewood Avenue, agreed with the previous two speakers. He feels that it's unfair as well. He thinks Marina Grande will have the biggest impact of anybody. It's not the five vacant lots down the street where they are going to build single-family residence. He can see a big advantage, as a builder himself, in paying impact fees at the time of certificate of occupancy. He thinks all impact fees should be paid at certificate of occupancy.

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Steve Smith, 1410 Riverside Drive, stated this may be their last chance to do something about the impact fees after hearing from the public. They have all heard the arguments and he would like for the Commission to change their minds.

Joseph Capers, 1512 Riverside Drive, stated he can see both views on this. All of us have had surprised fees. He doesn't think that the Commission would be gauging these people by charging them so much to just become part of our City. The citizens have all paid the money in one form or the other, why should they have to pay it? He doesn't see it being a huge burden on Marina Grande. We have a great City to offer them all kinds of things. We are a good City and we are welcoming them in. We are the heart of the great Daytona Beach area. We don't have to just do things for free. We need to stand together and speak up for what's right.

Penny Curry, 779 Lakewood Drive, stated they just recently had a home built. The same thing almost happened to them with the new impact fees from the County. They got in just in time so it didn't impact them. However, and she understands everybody's view, it would not have really swayed her decision one way or another to purchase her home. She and her husband both love Holly Hill and they have lived here for 23 years. If she had to pay an impact fee that was higher than what she anticipated, she would have done so. Being in Law Enforcement, she also understands that there is a great impact on their public safety as far as fire and police are concerned.

Mayor Via closed the public participation.

*Commissioner Reed made a motion for **APPROVAL** for the Second Reading of Ordinance 2773, with the proper criteria for the credits to be established by Resolution, seconded by Commissioner Anderson.*

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

Mayor Via opened public participation for Item #5, Ordinance 2771 – POLICE AND FIRE IMPACT FEES

Steve Smith, 1410 Riverside Drive, stated he thought that was a brilliant idea to collect the impact on the certificate of occupancy instead of the permit. He is glad Commissioner Reed thought of it and he would like to see it goes through.

Jim Legary, 342 Burleigh Avenue, stated he is wondering if they set this date of October 15th, if they're not going to have a rush to get these permits in and approved so that they don't get anything from anybody. As they have discussed on several occasions, he just doesn't see where they can have anything approaching the size of this project or that charming situation sitting on 3rd Street and Ridgewood Avenue or anything between now and then.

*Commissioner Reed made a motion for **APPROVAL** the Second Reading of Ordinance 2771, with the amendment that the Commission change the payment rate at the certificate of occupancy instead of the building permit, seconded by Commissioner Anderson.*

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Commissioner Penny stated he needed to ask Attorney Simpson a question. Is there any way to delineate the certificate of occupancy on towers three and four as opposed...can they exempt tower one and two and the parking garage? Is there some legal way to do that? He would hate to miss a financial windfall but he agrees that there is an impact. He can support Commissioner Reed's motion if there is some way that they don't charge the towers that are already under construction.

Attorney Simpson stated maybe the consultant has a suggestion but it would seem to him that they might be able to adopt an Ordinance that bifurcates based on time between the imposition of the impact fee at building permit and certificate of occupancy. He is trying to think how they would draft that but he would like to hear from the City's consultant if they have an opinion on that. Certainly, they can impose impact fees at certificate of occupancy. They would essentially be grandfathering those in that have already obtained their impact fee. Those who already have obtained their building permit as of the effective date of the adoption of this Ordinance.

Crystie Carey, Nabors, Giblin & Nickerson, P.A., the City's Consultant, stated it will take effect in accordance with law within 10 days. She thinks that would be a logical way to handle it; would be anybody that has a permit pulled now.

Attorney Simpson stated, yes. Then anybody who has not, as of the effective date of the adoption of this Ordinance then impact fees would be imposed at certificate of occupancy.

Commissioner Penny stated what if they make it building permits as of...tomorrow?

Ms. Carey stated well, that's where they have a problem. The new Impact Fee Legislation requires 90-days notice of the rates of the impact fees before they are implemented.

Attorney Simpson stated it sounds like it would work what they discussed earlier. Ms. Carey deals with these impact fees all the time. What do you think?

Ms. Carey stated she thinks that's reasonable and it's not unusual to set a provision that would say anybody applying for a building permit after this date would be subject to paying it at time of certificate of occupancy. That way they avoid that problem of impairing the existing contract for somebody who already has their permit out there who didn't know that when they came for their certificate of occupancy they were going to have to pay this higher rate.

Commissioner Penny stated that's his goal.

Ms. Carey stated but they have advertised a public hearing for adopting an impact fee and that would provide notice for anyone who would be applying for a building permit after the date this Ordinance takes effect.

Commissioner Reed stated while he doesn't fully agree with it, he feels a compromise is the best he can do.

Mayor Via stated the City is gaining more ad valorem with Marina Grande coming here.

MINUTES

Attorney Simpson stated this Ordinance, if adopted, will not just apply to Marina Grande. It will apply to everyone who is similarly situated. They may have people who got building permits yesterday and they didn't pay an impact fee so it wouldn't be imposed on them but somebody who comes in two weeks from today and applies for a building permit, even though it's not October 15th, when the certificate of occupancy issued they will pay the impact fee. They will not be able to pass an Ordinance that applies only to Marina Grande, in his opinion.

Mr. Forte stated somehow...he knows they are trying to capture the dollars from buildings three and four but the one thing that...if there is some way they can capture buildings three and four and keep the payment on permit, he would like to try to go in that direction because what that does is it gives the City the money upfront as opposed to three years later when that project is completed.

Mayor Via stated, right.

Commissioner Penny stated they can't impose it on permit because they have to give them 90 days and the permit will be pulled within 90 days.

Mr. Forte stated well, it maybe pulled. He couldn't tell them that it is or it isn't because he knows they are anticipating changes. He is sure they are going to work their hardest, being that size of an operation, to try and get that permit pulled within 90 days, that he can assure them.

Ms. Carey stated there is also the possibility, in a lot of cases, when the permits are pulled early they don't start constructing in time before the permit expires and when they re-pull a permit they would pay the impact fee then.

Mr. Forte stated once Marina Grande has pulled their permits, they have two years to begin construction if he is not mistaken. They are anticipating closing on buildings one and two in July, 2007. They have to complete all of Phase 1 including the park *before* they can move on to Phase 2.

Mayor Via stated they have a motion and a second on the floor to approve the Fire and Police Impact Fees with them being collected at the certificate of occupancy. If they vote to approve the Fire and Police Impact fees, they are also voting to approve it with the certificate of occupancy.

Attorney Simpson repeated what the amendment to the motion would be for the Commission: with respect to building permits that had been pulled prior to the effective date of this Ordinance, the impact fees would be imposed...there wouldn't be an impact fee, it would be the impact fee with respect to those, would be imposed at the time the building permit is pulled so the effective date of the Ordinance happened after the building permit was pulled. With respect to applications for building permits that are filed subsequent to the effective date of the adoption of this Ordinance the impact fees would be imposed on certificate of occupancy.

Commissioner Reed agreed to include the comments above into his motion for approval, seconded by Commissioner Anderson.

MINUTES

Attorney Simpson stated they have changed, fairly significantly, what was presented to the public. They may, just to be safe, ask for the public's comments with respect to this amended motion before they vote.

Mayor Via re-opened public participation for the Police and Fire Impact Fees.

Greg Blosè, (speaking on behalf of himself regarding this item), gave his personal opinions about what has taken place regarding this item and Marina Grande.

James Robinson, 1332 Riverside Drive, mentioned that he didn't know that there was no impact fees for Marina Grande and he was at the meeting when they talked about Mr. Rainey's project and he heard impact fees discussed but later he reads and finds out that they were only talking about a couple of different ones. He doesn't look at this as a windfall. These are real impacts. This money has to be paid by somebody. The City should have had these impact fees in before all this stuff happened.

Jim Legary, 342 Burleigh Avenue, addressed what Mr. Blosè said about Boca Developers being lured here. He finds that fascinating. Mr. Legary added to what the Mayor said earlier about the taxes and Mr. Legary stated the taxes that the folks will be paying are significant. Most of that money is going to go into the CRA. Well, what is going to be paid is going to be paid by the whole citizenry.

Mayor Via stated that's an incorrect statement but he will get into that privately.

Mayor Via closed public participation.

Attorney Simpson stated he thinks the approach they may be taking from an impact fee perspective, ignoring whatever commitments were made in the past, he thinks is probably legitimate. He thinks that is an exercise at the Commission's legislative prerogative.

Ms. Carey agreed with Attorney Simpson. She recommended to the Commission just to help with their public information and making sure the people are warned that perhaps the City draft a letter that's presented to anybody applying for a permit after the effective date of this Ordinance telling them that impact fee will be collected at certificate of occupancy once they have pulled their permit.

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

6. PUBLIC HEARING – SECOND READING OF ORDINANCE 2772, PARKS AND RECREATION IMPACT FEES

Mr. Simpson read by short title:

ORDINANCE NO. 2772

AN ORDINANCE OF THE CITY COMMISSION OF HOLLY HILL, FLORIDA, TO BE KNOWN AS THE HOLLY HILL PARKS AND RECREATIONAL FACILITIES IMPACT FEE ORDINANCE; PROVIDING DEFINITIONS, RULES OF CONSTRUCTION AND FINDINGS; ADOPTING A CERTAIN IMPACT FEE STUDY; PROVIDING FOR THE IMPOSITION OF PARKS AND RECREATIONAL FACILITIES IMPACT FEES ON ALL RESIDENTIAL CONSTRUCTION OCCURRING WITHIN THE CITY; DEFINING RESIDENTIAL CONSTRUCTION; PROVIDING FOR THE CALCULATION AND USE OF PARKS AND RECREATIONAL FACILITIES IMPACT FEES COLLECTED; PROVIDING FOR THE CALCULATION OF ALTERNATIVE PARK AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR EXEMPTIONS IN CONNECTION WITH PARKS AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR CREDITS FOR DEVELOPER CONTRIBUTIONS; PROVIDING FOR THE PAYMENT AND COLLECTION OF THE PARKS AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR APPLICABILITY; PROVIDING AN ALTERNATIVE COLLECTION METHOD FOR PARKS AND RECREATIONAL FACILITIES IMPACT FEES; PROVIDING FOR REVIEW HEARINGS; REQUIRING REVIEW OF THE IMPACT FEE STUDY AND THE PARKS AND RECREATIONAL FACILITIES IMPACT FEE ORDINANCE; DECLARATION OF EXCLUSION FROM ADMINISTRATIVE PROCEDURES ACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR NOTICE OF PARK IMPACT FEE RATES AND PROVIDING FOR AN EFFECTIVE DATE.

*Commissioner Blais moved for **APPROVAL** the Second Reading of Ordinance 2772, seconded by Commissioner Penny.*

Commissioner Anderson stated her biggest concern is that the impact fees are very high.

MINUTES

Melissa Proctor, Government Services Group, Inc., was present to answer any questions the Commission may have.

Commissioner Penny stated some of the Commissioners feel the fee is a little high and it's been explained to him that the valuation of Sunrise Park being \$4 million tends to increase their fee. He believes that may be a little bit high but he does believe the valuation of Hollyland Park at half a million dollars may be quite low. He is thinking that those parks may balance out. If they were to re-evaluate them with today's dollars, would that be a wash?

Ms. Proctor stated to start the process they do pull the property appraiser's records on all the parcels that were used and historically, the property appraiser does not keep those up to date because it's a non-taxed item. They ended up using a current sale value of land, here locally, to create this value. They can go back and revalue on all of them.

Commissioner Penny stated as he understands, the fees are based on the anticipation of the growth that the City would be purchasing another riverside park in that value, that \$4 million value.

Ms. Proctor stated actually, no. That's not correct. Those are values as they are right now. That is your current parks inventory including its improvements that make that total value at 9.679455. That's the current inventory value of their parks system as it is today. They start with that then they pull in their population and develop the cost per person. She thinks the methodology is pretty much right on. She has developed some percentages if the Commission would like to reduce the fee, she would recommend that they reduce it across the board. For example, if they only wanted to do 50% which they thought earlier was more reasonable, that is up to the Commission.

Commissioner Penny stated there has been discussion about reducing it by 10%, 20%. He just doesn't want to pick...if these are the impact fees and if the whole goal of impact fees are to pay for future growth, if this is accurate then that's what they need to charge.

Ms. Proctor stated, right. That's why with the concern #4 from the VHBA with removing Sunrise Park, they either include all of your inventory...she doesn't think that they should just take one out. It kind of messes up the whole methodology altogether.

Mayor Via opened public participation.

Greg Blosè, Director of Government Affairs of Volusia Home Builders Association (VHBA) 3520 West International Speedway Boulevard, Daytona Beach, stated as of this evening the VHBA still has several issues regarding the Parks and Recreation Impact fee study. The most paramount is regarding the \$3.587 million land value for Sunrise Park north and south. The VHBA is concerned about the \$3.587 million land value being included in the impact fee study under capital costs for parks and recreation facilities. The VHBA feels that the purchase of this park land is and was a special one-time project and that the City will most likely not purchase any waterfront land for the development of a new park in the foreseeable future. It is the recommendation of the VHBA staff that they ask the City Commission to remove this amount

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from the Parks and Recreation Impact Fee study calculation. If this request was approved the impact fee according to the VHBA calculations would be reduced to, roughly, \$600 per single-family unit. This is an amount that the VHBA could support. Further, if this request was granted, the VHBA would be willing to drop the other objections they have with the study so that the City and the VHBA can move forward together. The VHBA would like to note that this is not an uncommon request. It happens often in their impact fee dealings with various cities.

Micky Peterson, 801 Ridgewood Avenue, asked what is the amount of the impact fee.

Mayor Via stated the proposed amount is \$949 for single-family, \$781 for multi-family, \$961 for mobile home.

Mr. Peterson asked is that the impact new residents will have on the park or is that also including any possible future purchases for land for new parks.

Commissioner Reed stated the money can be used for new acquisitions or improvements but not maintenance.

Mr. Peterson stated okay then in that case, he thinks those fees are very high and he is against them.

Jack Myers, 122 LPGA Blvd., stated he has a real difficult time with a park impact fee when their parks are being given away. He thinks, at the very least, they need to remove Sunrise Park since that now, for all intents and purposes, belongs to Parks Seafood Restaurant. He doesn't see charging an impact fee when the citizens can't use some of the parks.

Mayor Via closed public participation.

Commissioner Reed asked Ms. Proctor if Mr. Bloué numbers are accurate if they pulled Sunrise Park out.

Ms. Proctor stated she did not change the methodology but she did alter the fee by taking it and reducing it so that it's 62.94% of the original amount which takes into consideration the figure Mr. Bloué and its \$597.35 single-family, \$491.64 for multi-family, \$604.72 for mobile homes and that would do what Mr. Bloué is suggesting the Commission do. These calculations were considered by *land value only* and left the amenities.

Commissioner Anderson stated she likes these figures better. She agrees with Mr. Myers that the parks are being used other than for the people. They are being used for parking and she does think by taking Sunrise Park out of there is better for the formula that they are using and she does think the original fee is much too high.

MINUTES

Ms. Proctor stated she does have another suggestion. She has taken...with leaving the methodology as is, leaving all the parks intact because that is their parks inventory. Regardless if the numbers are a hair off or a lot off. If they were to go with...and this is common, that maybe they don't adopt 100% of the rate. She gave them earlier 62.94% to pacify the reduction of taking that one park out. She would rather go back to their original methodology, the report that the Commission has, the numbers they have, and give them a 75%, 50%, and 25% rate.

Mayor Via stated which means that it would be the 75% from the...using the single-family which is \$949. If they use that particular figure, she is saying that the figure will be \$949 but she is going to discount it or it's going to be less than that?

Ms. Proctor stated they are going to adopt a 75% of the methodology that was presented to the Commission.

Mayor Via stated, okay.

Ms. Proctor gave the figures as follows: **75%**: \$711.78 single-family, \$585.84 for multi-family, \$720.57 mobile home. **50%**: \$474.52 single-family, \$390.56 multi-family, \$480.38 mobile home.

Mayor Via stated what Ms. Proctor is saying is that the Commission can accept the methodology but only take a percentage off that.

Ms. Proctor stated, yes sir. That is done often in other cities especially in parks.

Commissioner Penny stated he supports the methodology but he thinks the land values on Sunrise Park and Hollyland Park are a wash. He thinks Hollyland Park has to be worth at least half as much as Sunrise Park; \$225,000 is drastically low. They supported the methodology on the last ones because it was easy and because they were all under \$300, that's his opinion.

Ms. Proctor stated she would be happy to...in another city they adopted the methodology and went ahead and started their notice period because they don't want to delay there, they did an appraisal and they did a Resolution altering...bringing the land rates up. Would that take care of Commissioner Penny's concerns?

Commissioner Penny stated that would make him more comfortable. He is accepting the methodology/the equation of how the consultants have come and totaled the land values and they've taken our population and the dwelling...he accepts the formula but not the numbers that are plugged into it. If they can adopt this tonight and they can have accurate appraisals on their parks then he will accept whatever those figures are.

Commissioner Reed stated he would like to suggest to amend this to 75% and be done with it.

Commissioner Reed made an amendment to the figures to be at 75%, seconded by Commissioner Anderson.

MINUTES

The motion **CARRIED** 3-2 on roll call: Reed – Yes, Anderson – Yes, Penny – No, Blais – No, Mayor Via – Yes.

Mayor Via stated that they will now vote on the main motion which is to accept the Parks and Recreation Impact Fees based on the 75% rate.

Mr. Forte stated reminded the Commission that this Ordinance is imposed at permit not at certificate of occupancy so they may want to discuss that.

Commissioner Reed stated he believes they have reached a compromise and he believes they should follow that and be consistent so that all the impact fees are implemented in the same way; during certificate of occupancy. He would like to make that amendment using Attorney Simpson's language about timing. *This motion was seconded by Commissioner Anderson.*

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

Mayor Via stated now they will go back to the **main** motion and the main motion is that it is accepting the fees at the 75% rate and with it being paid at the certificate of occupancy.

The motion **CARRIED** 3-2 on roll call: Blais – No, Penny – No, Reed – Yes, Anderson – Yes, Mayor Via – Yes.

8. FIRST READING OF ORDINANCE 2774, REZONING – 1085 & 1091 NOVA ROAD – APPLICANT: HARRY LEAHEY

Mr. Simpson read by short title:

ORDINANCE NO. 2774

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2352, THE LAND DEVELOPMENT REGULATIONS, AS PREVIOUSLY AMENDED, BY REZONING APPROXIMATELY 0.77 ACRES LOCATED AT 1085 N. NOVA ROAD WITH TAX PARCEL ID 4242-04-20-0224 AND 1091 N. NOVA ROAD WITH TAX PARCEL ID 4242-04-20-0228 FROM VOLUSIA COUNTY I-1(3) "MIXED USE" 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 Penny moved for **APPROVAL** the First Reading of Ordinance 2774, seconded by Commissioner Blais.*

MINUTES

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

**9. FIRST READING OF ORDINANCE 2775, REZONING – 1071 NOVA ROAD –
APPLICANT: MARY WEEDO**

Mr. Simpson read by short title:

ORDINANCE NO. 2775

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2352, THE LAND DEVELOPMENT REGULATIONS, AS PREVIOUSLY AMENDED, BY REZONING APPROXIMATELY 0.91 ACRES LOCATED AT 1071 N. NOVA ROAD WITH TAX PARCEL ID 4242-04-20-0223 FROM VOLUSIA COUNTY I-1(3) “MIXED USE” 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 Penny moved for **APPROVAL** the First Reading of Ordinance 2775, seconded by Commissioner Blais.*

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

**10. FIRST READING OF ORDINANCE 2776, REZONING – 1656 & 1670 NOVA
ROAD – APPLICANT: RICHARD BEAZLEY**

Mr. Simpson read by short title:

ORDINANCE NO. 2776

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING ORDINANCE 2352, THE LAND DEVELOPMENT REGULATIONS, AS PREVIOUSLY AMENDED, BY REZONING APPROXIMATELY 2.18 ACRES LOCATED AT 1670 N. NOVA ROAD TAX PARCEL ID 4242-40-40-0190 1656 N. NOVA ROAD TAX PARCEL 4242-40-40-0150 FROM VOLUSIA COUNTY I-1(3) “MIXED USE” 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 Blais moved for **APPROVAL** the First Reading of Ordinance 2776, seconded by Commissioner Penny.*

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

**11. FIRST READING OF ORDINANCE 2777, REZONING – 1698 NOVA ROAD –
APPLICANT: CITY OF HOLLY HILL**

Mr. Simpson read by short title:

ORDINANCE NO. 2777

**AN ORDINANCE OF THE CITY OF HOLLY HILL,
FLORIDA AMENDING ORDINANCE 2352, THE LAND
DEVELOPMENT REGULATIONS, AS PREVIOUSLY
AMENDED, BY REZONING APPROXIMATELY 1.32
ACRES LOCATED AT 1698 N. NOVA ROAD TAX PARCEL
ID 4242-40-40-0200 FROM VOLUSIA COUNTY I-1(3)
“MIXED USE” 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 Reed moved for **APPROVAL** the First Reading of Ordinance 2777, seconded by Commissioner Blais.*

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

**12. FIRST READING OF ORDINANCE 2778 – AMEND SECTION 114-688, FLAG
LOTS, IN THE CITY’S LAND DEVELOPMENT REGULATIONS**

Mr. Simpson read by short title:

ORDINANCE NO. 2778

**AN ORDINANCE OF THE CITY OF HOLLY HILL,
FLORIDA; AMENDING SECTION 114-688 (FLAG LOTS)
TO PROHIBIT THE CREATION OF FLAG LOTS, EXCEPT
IN SITUATION FOR PRE-EXISTING LOT WITH NO
ACCESS TO A PUBLIC ROAD; AND AMENDING**

SECTION 114-763 (MINIMUM STREET FRONTAGE) TO REQUIRE A MINIMUM LOT ROAD FRONTAGE EQUAL TO AT LEAST NINETY PERCENT (90%) OF THE MINIMUM LOT WIDTH AND PROHIBITING THE CREATION OF FLAG LOTS IN THE CITY; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Blais moved for **APPROVAL** the First Reading of Ordinance 2778, seconded by Commissioner Reed.*

Mr. Forte stated this was presented to the Board of Planning and Appeals on July 3, 2006 and it failed on two attempts. The attempt to approve failed and then an attempt to deny failed and an attempt to modify it failed as well. It's coming to the Commission tonight from the Board without a recommendation. It's now going to be strictly up to the Commission as to whether or not they want to move forward in one direction or the other or modify this the way they want it.

Commissioner Reed asked what was the modification the Board was trying to do.

Mr. Forte asked Mr. Gutierrez to come up and speak briefly.

Mr. Gutierrez gave a brief presentation of the Board of Planning and Appeals meeting that was held on July 3, 2006. Essentially, what the modification was, rather than eliminate the vision for flag lots as a special exception, make the criteria stricter to make it a little bit more difficult like widening the stem or the pole to 20 feet or 25 feet and that would probably eliminate a lot of properties from doing that because the house will have to be whatever the side setback is from that property line.

Commissioner Reed stated so Mr. Gutierrez maybe feels like the Board's intent was to keep this exception alive but make it a little bit more difficult.

Mr. Gutierrez stated make it a little more difficult.

Commissioner Reed stated he voted on two of these flag lots and he hasn't seen anybody come out of it happy. Not the recipient of the flag lot, not the neighbors, and not anybody else. The two times he voted for it, he felt like he was trying to help somebody. He would like to see this whole thing with flag lots go away. Whatever flag lots are currently eligible for a flag lot may not be many.

Commissioner Penny asked does staff know how many eligible lots there are in the City that could turn into flag lots.

Mr. Gutierrez stated he thinks it's a number between 20 and 40 lots in the R-1 zoning district along the river.

Mayor Via opened public participation.

Jack Myers, 122 LPGA Blvd., asked what is a flag lot.

Mr. Gutierrez described a flag lot to him at this time.

Commissioner Reed stated he also feels that this new Ordinance that's been drawn up allows for the land locked lot. He thinks the City has done a good job drafting an Ordinance that's going to eliminate this contentious issue and still provide for somebody that has a land locked lot.

Joseph Capers, 1512 Riverside Drive, stated his opinion on this is that flag lots are just going to cluster the whole City. It gets to the point where they have to start planning for the next century and when are they going to start doing that? They need to start doing it now and let the people know that they can't just keep doing flag lots.

James Robinson, 1332 Riverside Drive, stated if he had to decide, he would say that he is against flag lots. Wasn't there something he read in one of the discussions that the reason it was there was because it was to prevent people from subdividing through the County or something like that. Didn't that give them some kind of protection?

Mr. Forte stated one of the things Scott Simpson looked into was to make sure that if somebody was able to subdivide their property, legal, through a subdivision, that the City gained control of that by creating the special exception that they would have to come before the Commission for approval. That by eliminating the special exception, would that then allow somebody to create a subdivision and not have to come before the Commission? He believes Scott Simpson has crafted that in such a way that, that would not be the case. Except for the rare scenario where there's a land locked parcel of land, and he doesn't know if there are many of them, he knows that there is one, the one that the City was going to buy at 2nd Street for the retention area, and the City would certainly not allow somebody to today subdivide or create a subdivision that would create a land locked piece of property. That would be an illegal subdivision.

Mayor Via closed public participation.

Mr. Gutierrez stated the County also requests a letter from the city if someone wants to subdivide property. He wanted to bring up another point and he knows that Scott Simpson was thinking about it as well, is the fact that these flag lots would be non-conforming lots and the City's Code has a provision that if two non-conforming lots are under single ownership, they would be combined to create a legally conforming lot.

Mr. Forte stated in other words, anybody that has a flag lot that's been approved and recorded, if it's still under single ownership it will have to be joined together as a whole lot again. If anybody has a flag lot, it would behoove them to sell one of the other portions of it or put it under separate ownership or else they will be forced to put it back under single ownership.

Commissioner Penny asked as of when.

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Attorney Simpson stated in theory, it would be the effective date of the adoption of the Ordinance but they could avoid that pretty easily by creating a corporation and putting one lot in a corporations name and keeping one in their own name.

Commissioner Penny asked does the City owe it to those people that this is about to happen.

Mr. Forte stated the most recent ones they can but others that were granted a flag lot years ago and recorded it years ago have it and it would take an effort to try and track down who has a flag lot and who doesn't as opposed to where it expires in a year if they don't pull a permit or in two years if they don't pull their permit. Once it's recorded, it's done.

Commissioner Reed stated he feels they should notice the most recent applicants that have received a flag lot.

Mr. Forte stated anybody who has a flag lot, has one year from the time that they were approved to record it with the County and the Commission hasn't granted one since February, 2006.

*Commissioner Reed made a motion to **APPROVE** with language including the previous flag lots would be grandfathered in and would not be affected, seconded by Commissioner Blais.*

Mr. Forte stated they will legalize the language for the second reading, July 25, 2006.

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

13. FIRST READING OF ORDINANCE 2779, REZONING – AMENDING AN INDUSTRIAL PLANNED UNIT DEVELOPMENT (IPUD) AGREEMENT – 975 GOLF AVENUE – APPLICANT: PLAZA GRANDE, LLC

Mr. Simpson read by short title:

ORDINANCE NO. 2779

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING ORDINANCE NO. 2352, THE LAND DEVELOPMENT REGULATIONS, BY REZONING APPROXIMATELY 5 ACRES, LOCATED ON THE SOUTH SIDE OF GOLF AVENUE NEAR ITS INTERSECTION WITH FIESTA CIRCLE, AMENDING THE IPUD, INDUSTRIAL PLANNED UNIT DEVELOPMENT DISTRICT; APPROVING AN AMENDED MASTER DEVELOPMENT PLAN AND INCORPORATING IT INTO THIS ORDINANCE FOR THE PURPOSE OF REGULATING THE USE AND DEVELOPMENT OF THE PROPERTY; PROVIDING FOR SEVERABILITY;

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REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

*Commissioner Penny made a motion for **APPROVAL** the First Reading of Ordinance 2779, seconded by Commissioner Blais.*

Mr. Forte stated this is formally the salvage yard which is no longer there and because it was a PUD it has to be rezoned if something other than a salvage yard is going to go there. The Plaza Grande, LLC is proposing a storage unit facility. At staff level it was modified to bring it more into compliance along the lines of what the City's existing Codes are. This had gone before the Board of Planning and Appeals on July 3, 2006 and one of the issues was this type of a use, when it abuts residential property, requires a masonry wall as a buffer and because the building itself is a solid wall with no access to the rear, it seemed redundant to have a solid block wall and then the solid block wall of the storage unit. The one thing that he would probably request is that the applicant maintain the buffer between the building and the property line which is also where the retention area is going to be in addition to the infiltration that he is going to have on site. It says here that additional landscaping would be used in lieu of putting this wall up and he thinks that they should identify what additional means, either 10% or 15% or 20% of the required landscaping by volume.

Steve Tyler, 3 Bay Point Drive, Ormond Beach came forward to answer some questions of Commissioner Reed.

Commissioner Reed stated he loves the design but doesn't like the chained link fence. How about they put up some of that ornamental fence? Like what Sunset Harbor has with the black rail fence, ornamental iron.

Mr. Tyler stated he thinks that would look terrible. What he has in mind now is just leave the 35 foot, totally landscaped buffer, and then they wouldn't have anything until they hit the wall of the buildings.

Commissioner Penny stated most of those houses over there have fences in their backyard now.

Commissioner Blais stated a privacy fence.

Commissioner Penny stated most of them have chained link fences now.

Mr. Tyler stated they have chained link and a combination of wood. It's rather ugly.

Commissioner Reed stated that Mr. Tyler is saying that the air conditioning units, the condensers are not visible from those residential units behind him.

Mr. Tyler stated no, nothing will be visible.

MINUTES

Mr. Gutierrez stated the fence is not required.

Mayor Via stated oh, but it's optional by the applicant.

Mr. Gutierrez stated, yes. If Mr. Tyler wanted it staff recommended black or green that would make it a little bit more invisible.

Mr. Tyler stated this is going to be a first class storage unit. This is not going to be what they would normally see with metal buildings and doors opened to the outside; there will be not doors to the outside. This will all be interior, air conditioned, and climate controlled.

Commissioner Reed asked how many square foot is Mr. Tyler going to have on the roof.

Mr. Tyler stated 65,000.

Commissioner Penny asked if the Commission needs to address Mr. Forte's concern about quantifying the landscape.

Mr. Forte stated he doesn't know if Mr. Gutierrez has a methodology in regards to the landscaping yet and if he does that's fine.

Mayor Via stated Mr. Gutierrez is going to review it at planning...

Mr. Gutierrez stated at site plan.

Mayor Via stated, and then Mr. Gutierrez will make the recommendations and work together with the applicant on that.

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

14. RESOLUTION 2006-R-18, RIVIERA REUSE SECOND ADDENDUM

Mr. Simpson read by title only:

RESOLUTION NO. 2006-R-18

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A SECOND ADDENDUM TO THE ANNEXATION AND WATER REUSE AGREEMENT WITH RIVIERA COUNTRY CLUB, INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

MINUTES

*Commissioner Penny made a motion for **APPROVAL** to Resolution 2006-R-18, seconded by Commissioner Blais.*

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

None.

16. COMMUNICATIONS

A. City Manager

None.

B. City Attorney

None.

C. Mayor & Commissioners

Commissioner Blais wished the Mayor a Happy Birthday. Commissioner Blais mentioned that he attended the dedication ceremony to the Strickland Gun Range on Indian Road. He spoke about the Fire truck named Rosie that was in the *Neighbors* Section of the newspaper last week.

Commissioner Reed mentioned that he and Commissioner Anderson received an e-mail from Mr. and Mrs. Bagwell thanking them for their support. He just wants to let the rest of the Commission know that people are affected by our decisions and whether they are citizens of Holly Hill or not, they're affected by our decisions and while it makes him feel good that Mr. and Mrs. Bagwell appreciate that he stood up for them, it's also a reflection on the rest of the Commission that they didn't feel that the rest of the Commission stood up for them.

Mayor Via spoke about the Commercial Beautification Award given to Junior's Deli on Riverside Drive across from Marina Grande. Mayor Via spoke briefly about the impact fees and the fairness that was spoken about earlier tonight.

MINUTES

17. ADJOURNMENT

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

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

Roland D. Via
Mayor