

MINUTES

**MINUTES
REGULAR COMMISSION MEETING
CITY OF HOLLY HILL, FLORIDA
July 27, 1999**

1. CALL TO ORDER

Mayor William Arthur called the meeting to order in Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 7:30 p.m. Attending with Mayor Arthur were Commissioners J.D. Mellette, Arthur Byrnes, Shirley Heyman, and Roland Via.

Also attending were City Manager Don Lusk, City Attorney Edward Simpson, Public Works Director Milt Hallman, Police Lt. Mark Barker, Finance Director Brenda Gubernator, Code Administrator Tim Harbuck, Recreation Director Chuck Beach, Fire Chief Joe Forte, and City Clerk Jeaneen Clauss.

2. INVOCATION

Public Works Director Milt Hallman delivered the invocation.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. PRESENTATIONS & PROCLAMATIONS

None.

5. CONSENT AGENDA

- A. Minutes of Regular Commission Meeting held on July 13, 1999;**
- B. Minutes of Commission Workshop held on July 13, 1999;**
- C. Minutes of Special Commission Meeting held on July 15, 1999.**

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

The motion **CARRIED** 5-0 on roll call: Via – yes, Mellette – Yes, Heyman – yes, Byrnes – yes, and Arthur – yes.

6. AUDIENCE PARTICIPATION

Debra Walker, 1314 Riverside Drive, thanked the Mayor for writing the letter to the County Council requesting they address the issue of property ownership on Riverside Drive. Ms. Walker then went on to state her concerns about the proposed interlocal agreement. Her basic concerns were the complete disregard for private ownership and the drastic sweeping change to the citizens' property. She asked for the Commission's support, requesting that they not accept this agreement in its present form. Mayor Arthur stated that the Assistant City Attorney also disagreed with the agreement, as it is now written. Mr.

MINUTES

Lusk stated that there was never any discussion between this City and the County in which the additional footage was mentioned – which they placed in this preliminary draft. He added that this was a totally unacceptable agreement.

Edward Perkins, 920 Riverside Drive, also addressed the Commission on this issue and thanked them for the letter they sent to the County Council. He then inquired as to who might be in favor of an interlocal agreement, and added that he has spoken to three County Council members who would prefer to vacate this area. Mayor Arthur indicated that the Commission was only in favor of some form of an agreement, if the County exerted ownership of the property - so that the City could assist the citizens with permits.

Anna Seay, 1324 Riverside Drive, stated that she has to come up here once in awhile to check on them. She stated that this Riverside Drive situation is a mess, as she has been paying taxes on this property (which they are now claiming as theirs) for twenty years. She summed up her point that the citizens of Holly Hill are about to be taken for a ride.

Zola Wisnowski, 900 block of Flomich, thanked all of them for filling up the ditch a few years ago and then went on to state that she is appalled by what is being said about J.D. Mellette. She felt that City Manager Don Lusk and Police Chief Larry Walker showed common sense in their handling of the Mellette incident.

Michelle Donely, 4318 S. Atlantic Av. In Ponce Inlet, stated that she read that it is Holly Hill's policy, no matter what, to arrest someone who has done domestic violence and that she did not receive that response from the Holly Hill Police Department when she lived here a year ago. She stated that the police were called, took pictures of her son who had bruises inflicted by his father, and she called them several more times when she was threatened by this same man and she received no help from this department – even when she had an injunction for protection, which they did not enforce. She stated she has numerous copies of reports that they did, but no arrest was ever made. She felt that it was far more important when someone was not arrested when they should have been than when someone was arrested when perhaps they shouldn't have been. City Manager Don Lusk stated that when they receive a complaint on something like this automatically they do an internal affairs investigation and asked Lt. Mark Barker to do so and report back on it.

7. SECOND READING, ORDINANCE NO. 2565, ANNEXING BY VOLUNTARY PETITION PROPERTY LOCATED CONTIGUOUS TO THE CITY OF HOLLY HILL, OWNED BY DELUCA PROPERTIES, INC., LOCATED AT 1892 NOVA ROAD.

City Attorney, Edward Simpson read Ordinance No. 2565 by short title:

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA ANNEXING BY VOLUNTARY PETITION PROPERTIES LOCATED CONTIGUOUS TO THE CITY OF HOLLY HILL; REDEFINING THE BOUNDARIES OF THE CITY OF HOLLY HILL TO INCLUDE SAID PROPERTY; DIRECTING THE CITY CLERK TO FILE THE ORDINANCE WITH THE CLERK OF CIRCUIT

MINUTES

COURT, WITH THE CHIEF ADMINISTRATIVE OFFICER OF VOLUSIA COUNTY AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Mellette moved **APPROVAL** of the first reading of Ordinance 2565, seconded by Commissioner Byrnes.*

Commissioner Via stated that this is another fine business coming into the City.

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

8. AUDITOR SELECTION AND PROPOSED THREE YEAR CONTRACT.

Finance Director Brenda Gubernator advised that the Selection Committee met and interviewed three firms and they unanimously selected Brent Millikan & Company as number one and they have a proposed contract, which the Commission received. She further advised that the attorney reviewed this contract and the company made the changes that the attorney recommended. She then introduced Mr. Kish, who stated it was both a pleasure and a privilege to provide their proposal to them tonight. Mr. Kish stated that they had put together a team that includes three partners with a combined total of more than fifty years of experience in this field. He advised that their firm has been in business for twenty-five years and they have been involved in local government that entire time. He then offered to answer any questions they might have tonight regarding the proposal. No questions were asked of him but Commissioner Byrnes asked Ms. Gubernator why they didn't interview the firm that was almost four thousand dollars less than this one? Ms. Gubernator responded that she felt that particular firm was too small to handle this City's audit, when they are already doing South Daytona's and whatever other work they have. They discussed the possible reason why Ernst and Young's bid was so much higher and the assumption was the corporate overhead and the transportation costs from Orlando. Commissioner Via stated that he personally preferred James Moore & Company but in reviewing the desires of Ms. Gubernator, it is important that staff has the people that they think they can work with.

*Commissioner Byrnes moved **APPROVAL** of the Auditor Contract for the firm that was selected by the Committee, seconded by Commissioner Heyman.*

Commissioner Byrnes stated that he had no problems with the past audit firm but their price was higher than many of the others. Commissioner Heyman stated that they were in their top three. Mayor Arthur stated that a fresh look would be nice too.

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

MINUTES

9. RESOLUTION 99-R-23, ADOPTING A PROPOSED MILLAGE RATE FOR THE YEAR BEGINNING OCTOBER 1, 1999.

City Attorney, Edward Simpson read Resolution No. 99-R-23 by short title and included pertinent specifics from the body of the resolution:

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA ADOPTING A PROPOSED MILLAGE RATE FOR THE YEAR BEGINNING OCTOBER 1, 1999 OF 5.09007 MILLS, WHICH IS \$5.09007 PER \$1,000, EXCEEDING THE ROLLBACK RATE BY 0%.

*Commissioner Mellette moved **APPROVAL** of Resolution 99-R-23, seconded by Commissioner Via.*

Commissioner Byrnes indicated that he had doubts that tomorrow's headline would be, "Holly Hill Does Not Raise Taxes, Again". City Manager Don Lusk stated that they had hoped to lower taxes in their budget this year but, when the Governor vetoed their two hundred thousand dollars, they had to go to their roll back rate.

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

10. RESOLUTION 99-R-24, ESTABLISHING RENTAL RATES FOR THE USE OF THE LARGE PAVILLION AT NORTH SUNRISE PARK.

City Attorney, Edward Simpson read Resolution No. 99-R-24 by short title:

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA ESTABLISHING RENTAL RATES FOR THE USE OF THE LARGE PAVILION AT NORTH SUNRISE PARK; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Mellette moved **APPROVAL** of Resolution 99-R-24, seconded by Commissioner Heyman.*

City Manager Don Lusk advised that these are the rates that they have for across the street at Hollyland Park. Mayor Arthur indicated that he would prefer that it be free to the citizens but would like them to be able to reserve it. Commissioner Heyman indicated that she felt a small cost was needed, by stating that employees had to clean up the area afterwards. Commissioner Byrnes stated that he felt five dollars was fair for citizens and would prevent people from reserving it on a whim. Commissioner Mellette stated that he felt it was fair because the staff had to put time in for reservations and clean up.

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

11. EMPLOYMENT STATUS OF DONALD LUSK, CITY MANAGER.

Commissioner Mellette began this discussion by reading the following statement, which he had prepared for the record:

Some have suggested that I may have not acted appropriately or that I have a conflict of interest in this. First I want to say that I am human and do make mistakes but with this issue this is not one of those times. I have done nothing wrong, nor used this Commissioner seat inappropriately. I have and will continue to represent the citizens of Holly Hill to the best of my ability. At no time did I ask for any favors, nor do I feel I received any. The investigation shows that the officials contacted the Chief Investigator and the Assistant State's Attorney for guidance as they believed the City could be jeopardized by an incorrect action of a young officer. It is my understanding that they took action based upon the advice of the State's Attorney's Office. The controversy has not been about me or my family but we have been used and abused by those seeking a political or selfish advantage. I will not be part of this political game playing but I will seek to do what is best for the City of Holly Hill.

There was discussion as to whether item numbers eleven and twelve are the same and what order they should be in. Commissioner Heyman and Mayor Arthur stated that they felt the items could be combined for essentially being the same thing. Commissioner Via stated that he had requested this item in this order because the later items for this agenda may not be needed once this is completed. Commissioner Byrnes stated that he preferred they be looked at separately because on one item they have very specific, sworn statements and on the other there may not be. Commissioner Via confirmed that item number twelve could result in termination and City Attorney Edward Simpson confirmed that it could.

Commissioner Via moved to COMBINE items eleven and twelve, seconded by Commissioner Heyman.

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

12. DETERMINATION AND ISSUANCE OF DISCIPLINARY ACTION AGAINST THE CITY MANAGER, BASED ON THE RESULTS OF THE STATE ATTORNEY INVESTIGATION.

Commissioner Mellette continued his previously begun statement, as follows:

Mr. Lusk was hired by this City four years ago with hopes that he could bring this City out of its stagnate state of non-growth; no annexations; no new growth within the City; high cost of operations; and the list continues on. The man has done just that. Under his management, this City has done more in four years than the previous twenty; annexations; new

MINUTES

businesses coming in; growth within the City; paving more streets; more sidewalks; improved our parks; beautified our medians; improvements to our fire department; buying a new fleet of police vehicles; building a new gym and a pool; brought capital outlay and labor costs in line; all of this while lowering our taxes. In doing this, Don has had to be very hard. He has walked on a lot of people's toes and made a lot of people angry. In the beginning, it may have been needed to accomplish what had to be done but I have never approved nor condoned his temper or abusive language to the citizens or to employees. A year and a half ago this Commission put him on notice that we would no tolerate this manner of management. After a week of extensive investigation, of citizens and employees, and a lot of agonizing, I have found that Mr. Lusk still rules with fear and intimidation. If you disagree with his ideas or thoughts, you are instantly a bad employee or a trouble making citizen. You are instantly subject to his wrath and bullying. If you are an employee, you are subject to being fired or disciplined. If you are a citizen, you are subject to verbal abuse. His management abilities are good. He rarely makes poor decision calls, but he has made some, which all of us have done from time to time and we should try to learn from them and try to right them and move on. This City has come a long way but to quote Mr. Fries, "At what expense do we get there?" At this time, I feel the cost is too high and for that reason,

Commissioner Mellette moved to ACCEPT MR. LUSK'S RESIGNATION OR if he chooses no to for his TERMINATION, seconded by Commissioner Via.

Commissioner Mellette added that no one wins in this situation. Commissioner Via referred to the City Charter section 18 for the City Manager termination procedure. City Attorney Edward Simpson stated that the procedure called for the motion to be to direct the City Attorney's Office to prepare a resolution that includes the reasons, if any, articulated in the resolution and that the proposed resolution must be advertised - in accordance with the sunshine law.

Commissioner Mellette modified his motion to read as a motion to direct the City Attorney's Office to prepare a resolution that includes the reasons he cited in his statement regarding the removal of the City Manager, pursuant to City Charter section 18, second remained as Commissioner Via.

Commissioner Via read the following statement, which he had prepared for the record:

For a city to get anything done and to move forward, we have to have respect once again and our Commission must have integrity. There are members of this Commission that do not want to remove Don Lusk because they think it is only a fight with the Mayor and they have been personally injured by accusations so they'll sacrifice the good of the City for their own personal vendetta against the Mayor. Could the Mayor have handled things differently? - without a doubt - but remember he has been personally and emotionally involved for a long time and did not see the

MINUTES

support of this Commission. Some do not want to remove Lusk because they think he is the best CM we've ever had and he's the only one that can move this City forward, but Commission please remember this chain-of-command. We showed the vision and direction and he effectively followed our orders. One thing that I've found out in the last couple of weeks is that you can erect all kinds of buildings, pave streets, add sidewalks, and make physical improvements to our City but what people want most is a government of integrity. Citizens are now saying there's the good ol' boy Holly Hill again – we're right back where we were before. They have distrust for our government and for our police department. Lusk was warned a year and a half ago not to embarrass this City again. We put our word and integrity on the line by telling him one more chance in the minutes of December 23rd, 1998 meeting. Mayor, you stated and quoted, “we will not allow Mr. Lusk to do some of the things he's been caught doing; it just won't happen again; we're not going to do it; I don't think anybody is.” Mr. Mellette you also stated “he (Lusk) has been put on notice; we will not tolerate his roughness, as he has been told that if he continues in that line we will take actions to correct it.” Ms. Heyman you know you said at the time you “couldn't support Don unless you saw a change in the style of management”. And I was quoted as saying “I know there are citizens and employees that do not like Don Lusk, they do not like his style, I've also had to thoroughly examine all the issues and my conclusion is that personalities cannot be the prevailing action to remove the CM” and ecliptically I said “performance of his duties put forth by this Commission must be the weight of the decision” and today that's just what I question – his performance of duties. By voting to keep him in power, you are saying to him you want him to be the boss. You've got it all wrong; we run this City, not him. All the things that have gotten done are because we directed him to get it done. Vote to keep Lusk in power and that's what we'll have. A Mayor and two Commissioners are not working together – that's three-fifths of our Commission – we need to unite and come back together. And the Mayor and I can't work effectively with the CM – that's forty percent of your Commissioners that cannot work with the City Manager. Employees do not feel that the Commission backs them and it's demoralized them, it really has. What do you think we'll be able to accomplish in the future. We need to unite and start the healing process now. I've been on the inner circle for two years. I've heard what he's said in private about people and what he considers funny jokes. Just think of what he has said about me in the past two weeks in your private conversations with him. I will not lower myself down to his level to repeat what he's said but I assure you that it would really have made you mad. The last two weeks he has been able to be constantly in contact with you to persuade you that this is just a few in a Hate-Lusk Group that are causing all this trouble. That's what I used to believe also, while I was in the inner circle. He successfully divided and conquered. What I found out was when I came out public on

MINUTES

this issue to remove Lusk I was astonished at how many people came to me. I found that people were so disgusted with us that they did not want to waste their time to even call or write. And that's why you probably haven't heard from them. I did not wait for my phone to ring or to get letters, I chose to go to the streets and what I did was I went to Winn Dixie, I went to the bank, I went to the post office, I went out in public and I asked citizens "Are you a Holly Hill citizen?" and if they said "yes" I identified myself and I said "Are you aware of this issue? What is your opinion on it?" and ninety percent of the citizens that were involved in this opinion were of the opinion that Lusk needed to be removed. Now there were some people who weren't real happy with the Mayor and the way he went about things and that I think we can heal but there was absolute distrust and disdain for Mr. Lusk. On a personal note, my life has been upside down this past month. I'm not sleeping right, eating right, my work has been effected, and I probably haven't been the best person to my wife and kids and I want to say "Sorry, while your out there." At this point, I blame Lusk for the controversy. However, if this Commission votes to keep Lusk, I'll transfer the blame to those who vote to keep him because by voting to keep him you certainly will not make things better, only worse, as you'll send a message to him that he can do anything and get away with it. Let me be clear. Our decision involves two things, morals and ethics. Morally we do not want to send a message to women in this City that domestic violence is treated differently. Ethically, do we want to approve of our City Manager and Police Chief violating procedures of law and records and approve of cover-ups? What example do we set for our citizens, children, and employees? We are charged with the public's trust and now must earn it. I've asked for his resignation based on a clear-cut investigation that showed beyond a shadow of a doubt the City Manager and Police Chief violated our City Charter. In the City Manager's own were two memos he used the word "violation" several times and has "due to the serious offense" and "failed to follow proper procedure". State Attorney John Tanner has been quoted as saying "Lusk intervened in police matters when he legally should not have."

Commissioner Via asked City Attorney Edward Simpson for the definition of malfeasance, misfeasance, nonfeasance, and obstruction of justice. Mr. Simpson responded that malfeasance is doing your duty inappropriately, misfeasance is omitting to perform your duty, nonfeasance is the same as misfeasance, and obstruction of justice is a criminal statute term which basically means interfering with an arrest, with or without violence. Commissioner Via then read the definition of these from the American Heritage Dictionary. Commissioner Via then referred to the ten-question addendum to their evaluation package, which refers to the City Manager's duties, as specified by the City Charter. Specifically he pointed to number four – see that all laws, provisions of this Charter, and acts of the City Commission, subject to the enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully performed. Commissioner Via stated that there is no doubt that he has failed number

MINUTES

four, for which they would not hire someone else if they could not meet this standard. Commissioner Via added that he respected Commissioner Mellette for standing up for what's right. He ended with the following:

I ask that the Commission remember when they make their decision tonight, are we moving this City forward or is it Lusk? This is the second public embarrassment this City's had in two years because of Lusk. In making your decision, answer to yourself have these two incidents moved our City forward or backwards? Will we the Commission take the blame and responsibility for Lusk's actions – or will he answer for it? Our City's future is in our hands.

Commissioner Heyman read the following statement, which she had prepared for the record:

First of all, ninety percent of the people believe what they read in the News Journal and in my opinion this is a feud between the Mayor and the City Manager. Once again, Shirley Heyman probably stands alone. In the summary report about the inquiry into the arrest or the way I see it the non-arrest of Commissioner J.D. Mellette, by the State's Attorney's Office, they have left it in the hands of the Holly Hill City Commission, as it should be. This is from my point of view, the way I have seen this whole issue and conduct of Mr. Lusk in the proper procedures were not followed, which could have happened in any City. But we have to realize that it happened here – people make mistakes and I'm sure that if every police officer that has been on our force for fifteen or twenty years was fired for making a mistake, we wouldn't have any. Yes, Mr. Lusk and Police Chief Larry Walker said they should have filed a report why Commissioner Mellette was not arrested. This they did not do. The Chief has been disciplined and so should the City Manager be. In my opinion, there was no domestic violence that occurred. There is a fine line there. I have known J.D.'s ex-wife; I have never known nor has she by her own words known J.D. Mellette to abuse a woman or a child. Commissioner Mellette is being used here for a whipping post and that's very sad. Like the investigation asked, why was this not brought up right after it happened? Also, Mr. Espy knew about it then. Read the report. I have known Alan Espy for twenty years and I think he is a very good police officer. I have known Larry Walker for twenty years, he was a good police officer, and he is a very good Chief. Roland Via writes a good letter but what about the tape that was aired on TV about Mr. Lusk and Chief Finn, which was more embarrassing to me – that you could hear with your own ears. A lot of this is hearsay. At that time, the Mayor would not let our citizens speak but now he will. I see all of this as a personal vendetta between Alan Espy, the Mayor, and the City Manager. I cannot and I will not support that. I received a letter from a citizen which I respect very much. It said that Commissioner Byrnes has become a weak Commissioner. Well, I don't always agree with him, but in my opinion he is one of the strongest, smartest, and honest people I know and

MINUTES

I resent that implication of him. People tend to forget before Commissioner Via was elected he was against Mr. Lusk. As soon as he was elected, he was all for him. He was not embarrassed then but now it's election time. I can honestly say I do not vote just to get re-elected but for the good of the City. People used to say that I was in Virginia Wine's pocket until they found out better and I am not in Mr. Lusk's pocket because we both have cancer. You cannot let rumors or pressure decide your vote. That comes from your heart and what you really believe, not what someone else expects of you. Yes, we have got things done in this City because of a good City Manager and a good Commission and it takes both. To sum it all up folks, we have a personal thing going on here and something that has been totally blown out of proportion. Cover-up are very strong words – that seems to be thrown around lightly. How can it be a cover-up when a newspaper knew about it the night it happened? One other thing I would like to add is that the Mayor made a statement in the News Journal that he voted against the contract with Jennings, which is not true – read the minutes. But you know it time we put all this behind us. The City needs to move on; we need to get back to doing what we do best – paving roads, building sidewalks, improving medians, and building a gym. The Chief has already been punished for his part in this, now we need to deal with Mr. Lusk. What was good enough for the Chief should also be good enough for the City Manager. That's my opinion.

There was some debate between the Mayor and Commissioner Heyman on his vote concerning the Jennings contract, in which Mayor Arthur disagreed with Commissioner Heyman's statement that he voted for contracting with Jennings.

Commissioner Byrnes read the following statement, which he had prepared for the record - adding that this is the first time that he has seen more than one Commissioner have a written statement:

I must say that the easiest thing for me to do tonight would be to vote to fire Don Lusk but I have to live with my own conscience and I have to look at the facts of this individual case, as sworn under oath. The investigator talking to Mrs. Mellette; what did the officer do? He wanted his pants – that's J.D.'s pants. I said, "I ain't giving them to you, there's no reason to, I'm not being and I was not abused." She went on to say to the officer, "Do I look abused?" I didn't have a scratch on me, not a bump or a bruise on me, nothing. When the investigator talked to the officer he asked, "Did you just kind of physically look at her to see if there were any signs of abuse?" The officer said, "I looked, she didn't appear injured." Mrs. Mellette called the City Manager and asked him for his help – telling him that nothing had happened and that her husband had just been taken to City Hall. Mr. Lusk did not want to do anything illegal, so he had the Chief call the State Attorney's Office. The State Attorney's Office who tells him, "I don't think that there is probable cause, but how you are going to handle the arrest of un-arrest is up to you." So there was no

MINUTES

crime – with no crime, there can be no cover-up. The media has made a big deal about the whiteout and about the card being changed. Yet, according to the sworn statements of officers and dispatchers, they make mistakes – whiteout is used on a regular basis. My own personal investigation showed that there are card through out the system with whiteout on them. I want to make sure that this Commission sends a clear message that we do not want even a perception of a cover-up in any future event and that the white-out should be removed from the dispatch office and that if any changes need to be made to any documents that they are struck through and the changes written, so that someone could always go back and see what the original item was. My plan tonight was to offer up a motion to suspend Mr. Lusk without pay for one week just as the Police Chief had been suspended. But obviously there's another motion on the floor.

Mayor Arthur did not read a statement for the record but summarized his position by stating that this is not a personal vendetta, though at times Mr. Lusk made it personal by turning people against each other for not agreeing about certain points. He pointed out a time when Mr. Lusk chewed him out in front of an officer.

The motion **CARRIED** 3-2 on roll call: Mellette – yes, Via – yes, Heyman – no, Byrnes – no, Arthur - yes.

City Attorney Edward Simpson stated that Mr. Lusk had handed him a note and he is requesting his attorney have the opportunity to be heard with respect to the adoption of the resolution. Because there is no agenda item for the adoption of the resolution, it is his recommendation that the resolution be prepared for a Special Meeting another night.

Commissioner Via moved to SET A SPECIAL MEETING for the resolution, for Thursday August 29th at 7:30 p.m., seconded by Commissioner Byrnes.

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

There was discussion of suspension with pay until the resolution could be addressed and the Commission decided not to do so, as Mr. Lusk probably has loose ends to tie up – which City Attorney Edward Simpson advised is the cleanest way to do this, to avoid procedural challenge.

City Manager Don Lusk formally requested his due process be followed.

Commissioner Via indicated that he wants to see the Charter straightened out, as he knew from being a member of the Charter Review Committee that it was never the intent that the Commission could not remove a City Manager immediately upon making that decision.

MINUTES

There was discussion as to who should serve as Acting City Manager. Commissioner Byrnes recommended that Roy Schleicher come in for this position, as he is good a facilitating healing. The Commission also expressed full confidence in Joe Forte, current Assistant City Manager / Fire Chief, for filling this position. The areas of concern for each were Mr. Schleicher's lack of knowledge for the particulars of what is going on in this City and Mr. Forte's full-time job as fire chief, when this may be a very lengthy period of time. Code Administrator Tim Harbuck was mentioned as well, due to his serving effectively in this position previously. Everyone will think about this and address it again at the upcoming Special Meeting.

13. COMMUNICATIONS FROM CITY MANAGER

- A. Approval of Monday, December 27, 1999 for Designation as the Annual Floating Holiday.

*Commissioner Via moved **APPROVAL** of Monday, December 27, 1999 as the Designated Floating Holiday, seconded by Commissioner Byrnes.*

City Manager Don Lusk advised that this allows employees to have Friday, Saturday, Sunday, and Monday off for the Christmas Holiday.

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

14. CITY ATTORNEY

City Attorney Edward Simpson indicated he had nothing further to report.

15. COMMUNICATIONS FROM MAYOR & COMMISSION

*Commissioner Via moved to **TABLE THE WORKSHOP** item of Shadow Park Improvements, seconded by Commissioner Mellette.*

The Commission decided to address this issue at the regularly scheduled workshop on the second meeting in August.

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

Commissioner Byrnes indicated he had nothing further to report.

Commissioner Mellette indicated he had nothing further to report.

Commissioner Heyman indicated she had nothing further to report.

MINUTES

Commissioner Via stated that this is a great City and it's going to be a greater City, we need to work together on the healing process for our employees, our citizens, and this Commission.

Mayor Arthur stated that he felt Commissioner Mellette showed great courage.

16. ADJOURNMENT.

The meeting officially adjourned at approximately 9:10 p. m.

ATTEST:

WILLIAM D. ARTHUR, MAYOR

JEANEEN P. CLAUSS, CITY CLERK