

**MINUTES
REGULAR COUNCIL MEETING
CITY OF HOLLY HILL, FLORIDA
SEPTEMBER 24, 1996**

1. CALL TO ORDER

Mayor William D. Arthur called the meeting to order in Council Chambers at City Hall, 1065 Ridgewood Avenue at 7:30 p.m..

Answering roll call were Mayor Arthur, Councilman Arthur Byrnes, Councilman J. D. Mellette, Councilman Shirley Heyman and Councilman Jim Elliott.

Also attending were City Manager Donald Lusk, City Attorney Edward Simpson, Police Chief J. Patrick Finn and Deputy City Clerk Sue W. Blackwell.

2. INVOCATION

The Invocation was given by Councilman Shirley Heyman.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. CONSENT AGENDA

A. Approval of Minutes - Regular Meeting - September 10, 1996; Special Meetings September 3 & 11, 1996; Workshop Meeting - August 27, 1996

Councilman Elliott moved to APPROVE the consent agenda being seconded by Councilman Mellette. The motion CARRIED 5-0 on roll call.

5. AUDIENCE PARTICIPATION

None.

6. PUBLIC HEARING ON RESOLUTION NO. 56 ADOPTING A FINAL MILLAGE RATE FOR 1996-97 BUDGET

City Attorney Simpson announced the following before he read the resolution by title:

PUBLIC ANNOUNCEMENT to be made prior to the adoption of the millage-levy resolution pursuant to Florida Statute 200.065 (2) (d).

Name of Taxing Authority : City of Holly Hill

1996 Rolled-back Rates 5.53591 (\$5.53591 per \$1,000.00)

Percentage Increases 0%

1996 Millage Rate to be Levied: 5.53591 (\$5.53591 per \$1,000.00)

RESOLUTION NO. 96-R-56

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ADOPTING A FINAL MILLAGE RATE FOR THE YEAR BEGINNING OCTOBER 1, 1996 FOR THE CITY OF HOLLY HILL, FLORIDA

Councilman Heyman moved to ADOPT the resolution being seconded by Councilman Elliott. The motion CARRIED 5-0 on the following roll call:

Heyman, yes; Elliott, yes; Byrnes, yes; Mellette, yes; Arthur, yes.

7. PUBLIC HEARING ON ORDINANCE NO. 2439 APPROVING THE APPROPRIATIONS BUDGET FOR 1996-97

City Attorney Simpson read:

ORDINANCE NO. 2439

AN ORDINANCE ADOPTING THE APPROPRIATIONS BUDGET FOR THE CITY OF HOLLY HILL, FLORIDA, FOR THE FISCAL YEAR OCTOBER 1, 1996, THROUGH SEPTEMBER 30, 1997, PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT HERewith; PROVIDING FOR THE TERMS AND CONDITIONS THEREOF; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

Councilman Mellette moved to ADOPT the ordinance on final reading being seconded by Councilman Byrnes. The motion CARRIED 5-0 on the following roll call:

Mellette, yes; Byrnes, yes; Heyman, yes; Elliott, yes; Arthur, yes.

8. PRESENTATION ON BACKFLOW PREVENTORS BY GREG THOMPSON

Mr. Greg Thompson, Daytona Plumbing, gave a brief overview of the law requiring the City to have backflow preventors in the water system. He gave Council a copy of the Code.

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Mayor Arthur expressed his views opposing the need for this legislation. However, that does not keep the City from having to comply with the law.

9. CONSIDERATION OF ORDINANCE NO. 2437 - AMENDS SOLID WASTE ORDINANCE

City Attorney read:

ORDINANCE NO. 2437

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING SECTION 54-9 (COLLECTION AND DISPOSAL SERVICE FEE.) OF THE HOLLY HILL CODE OF ORDINANCES TO DELETE CERTAIN REQUIREMENTS FOR THE WAIVER OF COLLECTION AND DISPOSAL FEES; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

City Manager Lusk said this amendment will allow Council to have the semi-annual cleanup in the residential areas of the city.

Councilman Heyman moved to ADOPT the ordinance on final reading being seconded by Councilman Mellette. The motion CARRIED 5-0 on the following roll call:

Heyman, yes; Mellette, yes; Elliott, yes; Byrnes, yes; Arthur, yes.

10. CONSIDERATION OF ORDINANCE NO. 2438 - AMENDS 1995-96 APPROPRIATIONS ORDINANCE

City Attorney Simpson read:

ORDINANCE NO. 2438

AN ORDINANCE AMENDING ORDINANCE NO. 2413, THE APPROPRIATIONS BUDGET FOR THE CITY OF HOLLY HILL, FLORIDA, FOR THE FISCAL YEAR OCTOBER 1, 1995, THROUGH SEPTEMBER 30, 1996, PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT HERewith; PROVIDING FOR THE TERMS AND CONDITIONS THEREOF; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

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Councilman Mellette moved to ADOPT the ordinance on second reading being seconded by Councilman Elliott. There was no discussion. The motion CARRIED 5-0 on the following roll call:

Mellette, yes; Elliott, yes; Byrnes, yes; Heyman, yes; Arthur, yes.

**11. CONSIDERATION OF ORDINANCE NO. 2440 - ESTABLISHES
RESTRICTIONS ON CITY PARK USAGE BY CERTAIN INDIVIDUALS**

City Attorney Simpson read:

**ORDINANCE NO. 2440
AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA ESTABLISHING
ACCESS RESTRICTIONS ON INDIVIDUALS WHO HAVE BEEN ARRESTED FOR
COMMITTING CRIMES WITHIN A CITY PARK AND FOR INDIVIDUALS
DETERMINED TO BE GUILTY OF COMMITTING CRIMES IN A PUBLIC PARK
WITHIN THE CITY LIMITS; PROVIDING FOR CONFLICTING ORDINANCES;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

City Attorney Simpson gave a brief explanation of misdemeanors and felonies.

Councilman Byrnes expressed concern about people being banned from the parks before they have gone to trial. Council discussed this ordinance in depth. Mr. Lusk told Council the reason the ordinance is being presented is because there have been vandalism problems in the parks recently and this ordinance will give the Police Department another tool for enforcement. Mayor Arthur said all the cities are having problems in their parks and that the Council of Mayors have expressed an interest in this ordinance.

Mr. Simpson talked about the statute on criminal trespass requiring notice to be given so this ordinance creates a notice mechanism.

Councilman Mellette moved to APPROVE the ordinance on first reading being seconded by Councilman Heyman. The motion CARRIED 5-0 on the following roll call:

Mellette, yes; Heyman, yes; Elliott, yes; Byrnes, yes; Arthur, yes.

**12. RESOLUTION NO. 54 - ESTABLISHES SICA HALL FEES AND RENTAL
GUIDELINES**

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City Attorney Simpson read:

RESOLUTION NO. 96-R-54

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ESTABLISHING RENTAL RATES FOR THE USE OF THE CITY'S RECREATIONAL FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

City Manager Lusk told Council this resolution puts past practices and the current rate structure in writing for anyone to see.

Councilman Elliott moved to ADOPT the resolution being seconded by Councilman Byrnes. The motion CARRIED 5-0 on the following roll call:

Elliott, yes; Byrnes, yes; Heyman, yes; Mellette, yes; Arthur, yes.

13. RESOLUTION NO. 57 APPOINTS A MEMBER TO THE BOARD OF PLANNING AND APPEALS

City Attorney Simpson read:

RESOLUTION NO. 96-R-57

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, APPOINTING A MEMBER TO SERVE ON THE BOARD OF PLANNING & APPEALS FOR THE CITY OF HOLLY HILL, FLORIDA, FOR THE UNEXPIRED TERM OF ALAN EMERSON; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Councilman Byrnes moved to appoint Frances Mobley and ADOPT the resolution being seconded by Councilman Heyman. The motion CARRIED 5-0 on the following roll call:

Byrnes, yes; Heyman, yes; Mellette, yes; Elliott, yes; Arthur, yes.

14. RESOLUTION NO 58 - ESTABLISHES A \$3 FEE FOR BICYCLE LICENSES

City Attorney Simpson read:

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RESOLUTION NO. 96-R-58

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ESTABLISHING A LICENSING FEE FOR BICYCLES AND A TIME WHEN LICENSES CAN BE OBTAINED FROM THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Lusk explained this is not a revenue maker for the City but rather to cover the cost of the licenses. A member of the audience questioned why the licenses are necessary and Mr. Lusk explained that the Police need a means of identifying bikes when they are stolen or someone brings a bike to the station.

Councilman Elliott moved to ADOPT the resolutions being seconded by Councilman Byrnes.
The motion CARRIED 5-0 on the following roll call:

Elliott, yes; Byrnes, yes; Heyman, yes; Mellette, yes; Arthur, yes.

15. RESOLUTION NO. 59 -ESTABLISHES SOLID WASTE FEES

City Attorney Simpson read:

RESOLUTION NO. 96-R-59

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ESTABLISHING SERVICE FEES TO BE CHARGED FOR COLLECTION AND DISPOSAL OF SOLID WASTE, PROVIDING FOR REPEAL OF ALL RESOLUTIONS IN CONFLICT HERewith, AND PROVIDING FOR AN EFFECTIVE DATE

City Manager Lusk said this resolution contains the eighty-five cents increase which came about because the county raised landfill fees.

Councilman Mellette moved to ADOPT the resolutions being seconded by Councilman Elliott.
The motion CARRIED 5-0 on the following roll call:

Mellette, yes; Elliott, yes; Byrnes, yes; Heyman, yes; Arthur, yes.

16. RESOLUTION NO. 60 -ADOPTS WATER AND SEWER RATES

City Attorney Simpson read:

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RESOLUTION NO. 96-R-60

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ESTABLISHING THE WATER AND SEWER RATES FOR THE CITY OF HOLLY HILL FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 1996; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Council briefly discussed the resolution. Mr. Lusk said there will be a workshop on rates following the last meeting in October.

Councilman Mellette moved to ADOPT the resolution being seconded by councilman Byrnes.
The motion CARRIED 4-1 on the following roll call:

Mellette, yes; Byrnes, yes; Heyman, no, Elliott, yes; Arthur, yes.

17. RESOLUTION NO. 61 - SET DATES FOR SEMI-ANNUAL CLEANUP

City Attorney Simpson read:

RESOLUTION NO. 96-R-61

A RESOLUTION OF THE CITY OF HOLLY HILL, FLORIDA, ESTABLISHING FREE SOLID WASTE PICK-UP DAYS FOR SINGLE FAMILY RESIDENTIAL PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Lusk told Council this resolution established the dates for the semi-annual cleanups for single family residential customers as allowed in the ordinance Council just approved.

Councilman Mellette moved to ADOPT the resolution being seconded by Councilman Elliott.
The motion CARRIED 5-0 on the following roll call:

Mellette, yes; Elliott, yes; Byrnes, yes; Heyman, yes; Arthur, yes.

18. REZONING REQUEST - KENCO SIGNS - 150 BLOCK OF PINE AND GARDEN AVENUE

City Attorney Simpson read:

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ORDINANCE NO. 2442

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY REZONING APPROXIMATELY 0.75 ACRES LOCATED BETWEEN PINE AND GARDEN AVENUES APPROXIMATELY 250 FEET NORTH OF FIFTEENTH STREET AND 150 FEET SOUTH OF ELEANOR STREET, FROM R-3, SINGLE-FAMILY RESIDENTIAL DISTRICT, 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.

Councilman Mellette moved to APPROVE the ordinance on first reading being seconded by Councilman Heyman.

Attorney Skip Foster said he is representing Raymond Webb, owner of Kenco Signs. He said he would answer any questions for Council. City Planner Bob Keeth put a map up for everyone to see showing the different owners of the various parcels in the surrounding area. (Pine and Garden Avenues from Flomich to Fifteenth Streets.)

Mr. John Kuhn, Ms. Kim Fisher and Gene Nowinski spoke at length in opposition of the requested rezoning. Mr. Kuhn also presented a letter from Philip Bauer opposing the rezoning. Mrs. Paula Baillie and Tony Baillie spoke in favor of the rezoning and stated they live next door to Kenco Signs at this time. Mrs. Baillie said she is also the manager of the assisted living facility down the street from her home on Garden Ave. And the new owner of that business is in favor of this rezoning.

The discussion on this matter went on for well over an hour. The neighbors wanted assurances or conditions from Council if the rezoning was going to pass. Mr. Lusk told them you could not put conditions on rezoning requests and asked Mr. Simpson to explain contract zoning which he did. During the general discussion on this matter, it was stated that Mr. Webb will need a variance if he continues with his plans for development of the property. Mr. Simpson said that will be when the Council can put stipulations on the development.

Mr. Lawrence Bennett said he is the engineer on this project and told everyone that certain conditions such as fences and buffers must be met before the project can be approved. Mr. Ira Corliss, Chairman of the PAC, Jobs for Holly Hill spoke briefly and thanked the Council for their consideration of this matter and reminded them that following through on this request is the kind of projects we will need when the tax abatement passes.

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Councilman Byrnes said the area is in transition from residential to commercial but that he has a major problem voting against the Board of Planning and Appeals' recommendation.

Attorney Foster explained to Council that only three members of the Board were present for the meeting and that two of them opposed the rezoning. Councilman Heyman said she would like to hear from the Board. At that point, Cecily Noel (board member) came forward and briefly explained the action of the Board. Mrs. Frances Mobley, also a member, agreed with Mrs. Noel's comments.

More discussion ensued and then Mayor Arthur asked for comments from each Council member.

Councilman Byrnes said he was not voting against Mr. Webb personally, but because of the vote from the Board and the wishes of the neighbors. Mayor Arthur said he is voting for this because of the way it is zoned in the future Land Use Plan. Councilman Mellette said this is what the City has planned through the Land Use and to stop in the middle would only prolong the problem. Councilman Heyman said it should be zoned something besides CC-1. She said she wouldn't want business in her neighborhood and that is why we have a Planning Board. Councilman Elliott said he can see both sides. However, you set a goal to try to accomplish something. He said if this passes, he would like to see the businesses and residents work together. He also noted that some of the property owners do not live in the homes they own but rent them so that is a business.

The motion CARRIED 3-2 to approve the ordinance (rezoning the property) on first reading on the following roll call:

Mellette, yes; Heyman, no; Elliott, yes; Byrnes, no; Arthur, yes.

**19. REQUEST FOR VARIANCE AT 601 EIGHTH STREET TO OPERATE AN
AUTOMOBILE SALES LOT**

Mr. Bob Keeth , City Planner, explained that Arthur Vescovi is requesting a variance from the minimum lot area and frontage requirements so he can operate a new and used car sales lot. He is currently operating a business All United Security at that location. He plans to continue that business and will be selling cars to his operators and to the public when he disposes of the vehicles he no longer wants for the security business.

Mr. Vescovi addressed Council on this matter for over an hour and at the end of the discussion,

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Councilman Mellette moved to DENY the requested variance being seconded by Councilman Elliott. The motion CARRIED 5-0 on roll call.

**20. AMENDMENT TO LAND USE AND DEVELOPMENT REGULATIONS RE -
FENCES ON COMMERCIAL PROPERTY**

City Attorney Simpson read:

**ORDINANCE NO. 2441
AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING
ORDINANCE NO. 2352, THE LAND USE AND DEVELOPMENT REGULATIONS, AS
PREVIOUSLY AMENDED; REVISING SUBSECTION 5.6.2, FENCES, WALLS AND
HEDGES - MAXIMUM PERMITTED HEIGHT OF FENCES AND WALLS LOCATED
IN COMMERCIAL AND INDUSTRIAL AREAS; PROVIDING FOR SEVERABILITY;
REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND
PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.**

City Planner Keeth explained this is a "housekeeping" ordinance since the current regulations do not specifically address commercial property. This amendment will allow eight foot high fences in commercial or industrial zones in a front, side or rear yard, provided such fences comply with Subsection 5.6.2, Paragraph D.

Following the explanation for requesting the amendment, *Councilman Mellette moved to APPROVE the ordinance on first reading being seconded by Councilman Heyman. The motion CARRIED 5-0 on the following roll call:*

Mellette, yes; Heyman, yes; Elliott, yes Byrnes, yes; Arthur, yes.

21. COMMUNICATIONS FROM CITY MANAGER

A. Northwest Canal Project

Mr. Lusk reported Public Works started work on the Northwest canal on Monday and should be finished in a couple of weeks. That will be in time for taking down the old school as the burn has been planned for October 12, 1996.

B. LIUNA Letter Sent to Council/Manager

The City Manager told Council he will respond to the letter they received from the LIUNA complaining about treatment of employees abusing sick leave and not being allowed to talk to

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members of the City Council. Mr. Lusk mentioned that the three employees mentioned in the letter have used anywhere from 15 to 25 sick days during the past year. He said he will give Council a copy of his response as well as a copy of the sick leave records.

22. COMMUNICATIONS FROM CITY ATTORNEY

None.

23. COMMUNICATIONS FROM MAYOR AND CITY COUNCIL

Councilman Heyman - None

Councilman Elliott - None

Councilman Byrnes said this has been a tough meeting tonight and then asked Mr. Simpson if there has been a change in the law regarding ex parte communications. Mr. Simpson said he thought there may have been some changes but would look into it and report back.

Councilman Mellette - None

Mayor Arthur announced that Arthur's (Restaurant) 1st Annual Golf Tournament will benefit the Chamber of Commerce and invited everyone to come and play.

24. ADJOURNMENT

There was no further business to come before the Council so the meeting was adjourned at approximately 10:52 p.m.

Mayor

ATTEST:

City Clerk/Manager