

MINUTES
REGULAR COMMISSION MEETING
CITY OF HOLLY HILL, FLORIDA
SEPTEMBER 8, 1998

1. CALL TO ORDER

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

Answering roll call were Mayor Arthur, Commissioners Arthur Byrnes, J. D. Mellette, Shirley Heyman and Roland Via.

Also attending were City Manager Donald Lusk, City Attorney Edward Simpson, and City Clerk Sue W. Blackwell.

2. INVOCATION

Commissioner Roland Via gave the invocation.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. PRESENTATIONS

None

5. CONSENT AGENDA

A. Approval of Minutes – Regular Meeting August 25, 1998

*Commissioner Via moved to **APPROVE** the consent agenda being seconded by Commissioner Heyman. The motion **CARRIED** 5-0 on roll call.*

6. AUDIENCE PARTICIPATION

Randy Hendrix –owner of Ashland Mobile Home Park, 460 Ridgewood Avenue and Iowa Mobil Home Park 240 Seventh Street. One of his tenants, standing in front of the mailboxes on Seventh Street was accosted and beaten. A minister went to her assistance. Mr. Hendrix said, “I don’t believe that this is a coincidence, they open up a bar like Chick’s and one of my tenants gets accosted. I believe its directly related to that and I’m here to ask the City to revoke their license and to never allow this (type of establishment) to come into the City again. It’s uncalled for.”

Commissioner Byrnes said, “The Commission did not allow this to happen. As a Commissioner I know what the people in my City want and I know nobody wants that. But the Supreme Court tells us we have to make someplace for everybody. I believe that we should be able to ban that type of business if that’s what we have decided.”

City Manager Lusk said, "Our Bicycle Patrol have been in that park the last couple of days talking to the tenants on how things can be improved."

7. ORDINANCE NO. 2525 – CREATING AN ADDITIONAL \$2 FINE TO BE LEVIED FOR PEDESTRIAN, MOVING OR NON-MOVING TRAFFIC VIOLATIONS (Second reading)

Assistant City Attorney Simpson read:

ORDINANCE NO. 2525

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA CREATING AN ADDITIONAL \$2.00 FINE TO BE LEVIED FOR PEDESTRIAN, MOVING OR NON-MOVING TRAFFIC VIOLATIONS; LEVYING A 2.00 FINE TO BE DEDUCTED FROM EVERY BOND ESCHEATED OR FORFEITED; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Commissioner Mellette moved to ADOPT Ordinance No. 2525 on final reading being seconded by Commissioner Heyman. The motion CARRIED 5-0 on the following roll call:

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

8. ORDINANCE NO. 2526 – AMENDS THE LAND USE AND DEVELOPMENT REGULATIONS BY REZONING APPROXIMATELY 1.46 ACRES LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NOVA ROAD (SR 5A) AND FIFTEENTH STREET TO B-4 Vincent Tarlini (Second reading)

Assistant City Attorney Simpson read:

ORDINANCE NO. 2526

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING ORDINANCE NO. 2352, THE LAND DEVELOPMENT REGULATIONS, BY REZONING APPROXIMATELY 1.46 ACRES LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NOVA ROAD (SR 5A) AND FIFTEENTH STREET TO B-4; PROVIDING FOR SEVERABILITY; REPEALING ALL LAWS OR PARTS OF LAWS IN CONFLICT HERewith; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

Commissioner Mellette moved to ADOPT Ordinance No. 2526 on final reading being seconded by Commissioner Byrnes. The motion CARRIED 5-0 on the following roll call:

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

**9. ORDINANCE NO. 2527 – ESTABLISHES A MINIMUM
INTERNATIONAL PROPERTY CODE (Second reading)**

Assistant City Attorney Simpson read:

ORDINANCE NO. 2527

**AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA ADOPTING THE
INTERNATIONAL PROPERTY MAINTENANCE CODE, AS AMENDED;
PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

*Commissioner Via moved to ADOPT Ordinance No. 2527 on final reading being
seconded by Commissioner Heyman. The motion CARRIED 5-0 on the following roll
call:*

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

**10. ORDINANCE NO. 2528 – VACATES A PORTION OF GRANADA
STREET RETAINING A STORMWATER DRAINAGE AND PUBLIC UTILITY
EASEMENT OVER SAID PROPERTY (First reading)**

Assistant City Attorney Simpson read:

ORDINANCE NO. 2528

**AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA VACATING A
PORTION OF GRANADA STREET MORE SPECIFICALLY DESCRIBED
HEREIN; RETAINING A STORMWATER DRAINAGE AND PUBLIC UTILITY
EASEMENT OVER SAID PROPERTY; PROVIDING FOR CONFLICTING
ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.**

City Manager Lusk explained this is a vacating a street discussed at a workshop a few months ago. The City put in a ditch, a retention pond and has a sewer line and is retaining the easement. By vacating it, this means the City is out of it for good other than maintaining the retention area.

Mayor Arthur asked that when the Commission is considering rezoning or variance that a map would be helpful so everyone would know the sections being discussed.

*Commissioner Via moved to APPROVE Ordinance No. 2528 on first reading being
seconded by Commissioner Heyman. The motion CARRIED 5-0 on the following roll*

call:

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

11. ORDINANCE NO. 2529 – REPEALS CHAPTER 70, ARTICLE IV, SECTION 70-107 (MAINTENANCE OF BACKFLOW PREVENTION DEVICES) TO PROVIDE THAT ALL BACKFLOW PREVENTION DEVICES SHALL BE INSPECTED AND REPAIRED BY THE CITY ON AN ANNUAL BASIS (First reading)

Assistant City Attorney Simpson read:

ORDINANCE NO. 2529

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA REPEALING CHAPTER 70 (UTILITIES), ARTICLE IV (WATER SYSTEMS), SECTION 70-107 (MAINTENANCE OF BACKFLOW PREVENTION DEVICES); ADOPTING A NEW SECTION 70-107 (MAINTENANCE OF BACKFLOW PREVENTION DEVICES) TO PROVIDE THAT ALL BACKFLOW PREVENTION DEVICES SHALL BE INSPECTED AND REPAIRED BY THE CITY ON AN ANNUAL BASIS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

City Manager Lusk said, “This is an item that was work shopped a few months ago and is now a part of our budget. The City is going to get into the inspection and repair of smaller backflows. The larger ones we will just do the inspection and it will be part of the water bill.”

Mayor Arthur questioned page two of the ordinance and the ten day time frame for completing repairs and the failure to complete repairs within the allotted time frame providing a basis for disconnection. Mayor Arthur was concerned about disconnection of the water service. Mayor Arthur said, “The City is taking over the repairs to these backflows and if the City doesn’t do it in ten days we will disconnect the people?”

Assistant City Attorney Simpson said, “The lines that are bigger than four inches, either the City will do, or they can get a private backflow prevention repairman to do it. They need to contract with somebody to do it within ten days. If someone is expecting us to do it and we take more than ten days we can’t go shut their water off. Mr. Simpson said he would reword the ordinance but it would still address only the four inch lines or larger.”

*Commissioner Mellette moved to **APPROVE** Ordinance No. 2529 on first reading being seconded by Commissioner Heyman. The motion **CARRIED** 5-0 on the following roll call:*

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

Mayor Arthur called for a recess to conduct a brief Workshop. The regular Commission Meeting was recessed at 8:03 p.m.

The Workshop Meeting was called to order at 8:04 p.m.

A. Discussion of Formula for Tax Abatement

City Manager Lusk distributed and read a hand out to the Commissioners which is attached as part of the minutes. Mr. Lusk said staff is recommending a formula equal to a combination of 5 years and up to 75% and would almost like to leave the up to 75% out and leave it at 75%.

Commissioner Byrnes said he prefers to leave the up to 75% in there and do like the Commission agreed on at the last workshop where it is a ratio.

Commissioner Via said, "Tax abatement should only be honored prior to the business being built or brought into the City."

Commissioner Byrnes said, "We need to remember the main reason is to increase property values in the redevelopment corridor."

Assistant City Attorney Simpson will prepare a Resolution for Commission action on the next agenda.

There was no further discussion on this item and Mayor Arthur called a five minute recess at 8:10 p.m.

Mayor Arthur reconvened the Workshop Meeting at 8:15 p.m.

B. Discussion on Concert Series in the Park

City Manager Lusk said some people have approached us about having concerts in the park and we would like to make a little presentation tonight about what they propose to do. I'd like to say before we start though that you would have to change an ordinance to make this possible. They are talking about doing this four times a year and they would be selling beer at these concerts. This commission would have to change the ordinance to give them the ability to give special permits for something like this.

Economic Development Coordinator Ira Corliss introduced Kevin Connors, one of the Directors of the Holly Hill Chamber of Commerce. Mr. Connors passed out a flier (a copy is attached as part of the minutes) and explained the concert series concept.

Mr. Connors said, "The sponsor for the event is S. R. Perrott in Ormond Beach who will cover the cost for the band and marketing of the event and will also be donating the beer for the event which will be handled and distributed by the Chamber of Commerce. All proceeds from the beer sales would go directly back to the Chamber of Commerce. The sponsor is not asking for anything in return for putting this event on. It is totally FREE admission. Mr. Connors continued saying they are trying to coordinate with a food vendor for the distribution of hot dogs, hamburgers, chips, sodas the like. We would like to possibly get somebody like the Boys Club or one of the local organizations to handle

the food vending and the proceeds would go back to the non profit organization. The request the Chamber is making is that the City ordinance presently restricts the sale of alcoholic beverages in the City Park. The Chamber would like to see a variance during the course of the events and ask for the City to absorb the additional cleanup of the restroom facilities, the trash receptacles and possibly and additional drive by of police protection. The Chamber is also requesting any special permits or license requirements be waived."

City Manager Lusk said, "I have some real problems with this, we do not have the rest room facilities for 400 people. Another problem, volunteer enforcement is nice but I would want to see some uniformed police officers paid for by your organization. I've got some real concerns on traffic, rest room facilities and police. This is not what was originally presented. My recommendation is to take a real long look at this before we get into it. I would also tell this Commission we would need to develop some real procedures on how an event like this would be handled."

Commissioner Byrnes said, "Could we implement an ordinance on a trial basis without setting a precedent?" Assistant City Attorney Simpson said, "Sure you can repeal any ordinance that you adopt. You can narrow it down to a specific park. You may want to establish certain criteria such as non-profit organizations and if it doesn't work, you can repeal it."

Tammy Sharpe with the Chamber of Commerce said, "The initial plan was to hold four events. We would like to see 300-400 citizens of Holly Hill participating and taking advantage of something we are putting on for their benefit. We all know 300-400 people won't happen the first time. It would be great if that happened, but we need to look at a realistic number."

Mayor Arthur said, "If it's done properly, I think it might be nice."

City Manager Lusk said, "Part of the problem with the Ordinance you have now is there is no flexibility at all in it. You may want to take a look at this Ordinance. Put in the Ordinance that the City Commission would have the right to issue a special permit if certain circumstances are met."

Commissioner Via said his concern was for the parking, secure areas and the restrooms. Also where in Hollyland Park the event would be held.

Mr. Conners said, "There are a lot of things that need to be worked out. I think what we're here to ask for is, if the concept is workable, should we proceed and work out the logistics of what it's going to take. The Chamber of Commerce is willing to put forth the effort in order to make this work. I know the intent of the Commission is to have events for the community that coincide with this idea."

City Manager Lusk said, "There are two issues here tonight but first, if the Commission

wishes to change the ordinance, Assistant City Attorney Simpson probably has something prepared and you could do it on first reading tonight. Changing the Ordinance has nothing to do with the Chamber of Commerce request that would be a different decision. This Ordinance would be on first reading and the Commission can make other changes to it on second reading.”

Commissioner Mellette said, “I don’t have a problem putting this on the agenda for discussion.”

C. Miscellaneous

None

With no further business to come before the Commissioners the Mayor adjourned the Workshop Meeting at 8:45 p.m.

Mayor Arthur called the Regular Commission Meeting back to order at 8:46 p.m.

12. ORDINANCE NO. 2524 – GRANTS KENCO SIGNS AWNING DIVISION, INC., AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION (First reading)

Assistant City Attorney Simpson read:

ORDINANCE NO. 2524

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA GRANTING TO KENCO SIGNS AWNING DIVISION, INC., AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PURSUANT TO FLORIDA STATUTE SECTION 196.1995 EQUAL TO 50% OF THE QUALIFIED AMOUNT FOR A PERIOD OF FIVE (5) YEARS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

City Manager Lusk said, “I would like to recommend we follow the formula on this. If we do that this would be 75%. This Ordinance is reading 50% and I think you should make the change to 75% if you want to follow the formula for five years. If the City Commissions vote is to follow the formula.”

Commissioner Byrnes said “The one thing we had touched on at our workshop and although we talked about the formula in this previous workshop, we didn’t talk about the cost of the audits and who is going to cover those. It is my reading of the rules that the applicant has to cover the cost of the yearly audit to make sure that the pay scales and values are staying at the same level that they are receiving the tax abatement for. Since

this is the first applicant, we have to answer these questions now. I would like to know how much an audit would cost, if you can get us that information before second reading.”

Mayor Arthur said, “The audit should be fairly simple.”

A discussion was held concerning the percentage and number of years in which the tax abatement would be applied. It was the consensus of the Commission that the tax abatements should not exceed five years.

Assistant City Attorney Simpson re-read the Ordinance by title:

ORDINANCE NO. 2524

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA GRANTING TO KENCO SIGNS AWNING DIVISION, INC. AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PURSUANT TO FLORIDA STATUTE SECTION 196.195; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Heyman moved to **APPROVE** Ordinance No. 2524 on first reading being seconded by Commissioner Via. The motion **CARRIED** 5-0 on the following roll call:*

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

13. ORDINANCE NO. 2530 – ANNEXES BY VOLUNTARY PETITION PROPERTY LOCATED ON THE WEST SIDE OF NOVA ROAD (SR 5A) BETWEEN EIGHTH STREET AND TENTH STREET – Martin (First reading)

Assistant City Attorney Simpson read:

ORDINANCE NO. 2530

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA ANNEXING BY VOLUNTARY PETITION PROPERTY LOCATED CONTIGUOUS TO THE CITY OF HOLLY HILL; REDEFINING BOUNDARIES OF THE CITY OF HOLLY HILL TO INCLUDE SAID PROPERTY; DIRECTING THE CITY CLERK TO FILE THE ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT, WITH THE CHIEF ADMINISTRATIVE OFFICER OF VOLUSIA COUNTY AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Via moved to **APPROVE** Ordinance No. 2530 on first reading being seconded by Commissioner Heyman. The motion **CARRIED** 5-0 on the following roll call:*

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

14. ORDINANCE NO. 2531 – REVISES THE FUTURE LAND USE MAP TO INCORPORATE ANNEXED PROPERTY LOCATED ON THE WEST SIDE OF NOVA RD. (SR 5A) BETWEEN EIGHTH AND TENTH STREET (First reading)

City Manager Lusk asked that item 14 be pulled due to an incomplete legal description. Mr. Lusk said this would be a good place to add on the Ordinance discussed in the Workshop.

Assistant City Attorney Simpson read:

ORDINANCE NO. 2535

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING SECTION 6-2 (PUBLIC CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES.) TO ALLOW CONSUMPTION OF ALCOHOL ON PUBLIC PROPERTY WITH PRIOR CITY COMMISSION APPROVAL; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*Commissioner Mellette moved to **APPROVE** Ordinance No. 2535 on second reading being seconded by Commissioner Heyman. The motion **CARRIED** 4-1 on the following roll call.*

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

15. COMMUNICATIONS FROM CITY MANAGER

City Manager Lusk asked Public Works Director Milton Hallman to give the Commission a report on the preparation of the gym property.

Mr. Hallman said, "The City hired Halifax Paving to do the excavation and Universal Services to do the geological material so that we could remove all of the bulky material that was underground, the concrete, the blocks, the steam tunnels and things that we had to get out of there first. They would also be on site to replace all the material and bring it back up in twelve inch layers until we get to building pad elevation where then we could turn it over to a building contractor when the bids will be received later this month.

On Tuesday afternoon of last week, I received an emergency telephone call that they had found an underground tank. It was approximately a 1,000 gallon tank the large track hoe hooked a tooth into the tank and actually pulled the tank up and twisted it around in the hole and we spilled some heating fuel oil, a minimum of 25 gallons to a maximum of 75 gallons. The rest of the material remained in the tank. There is probably another couple of hundred gallons of fuel in the tank now. We took all of the contaminated material and

put it in a 20 yard roll off container. We safed up the tank for the environmental people to come and pump out the rest of the material and dispose of it properly. The next day we continued to dig in the hole until we got all of the contaminated material up, approximately 20 yards of material. The fuel oil and contaminated soil must be taken to Orlando to a hazardous site to be burned. On Thursday we found another tank. The bottom was completely rusted out and we believe it was the original fuel tank. The proper procedures were again followed and we dug all of the contaminated material out of the ground. On Friday afternoon we hit the third tank, a 250 gallon tank, that still had material in it. The ground all around the tank was contaminated also.

The first assessment or estimate we had from Universal Engineering was \$2,200 when we hit the tanks and all the environmental reports that had to be prepared the cost went up to about \$6,200 after we located the first one. After we located the second and third ones, now, I've told them to proceed but keep all of their hourly rates. We would go on a time and materials basis until we can determine what kind of expense we are facing. We're probably facing something in the neighborhood of \$10,000 - \$12,000. If we had been in the process of building the building, it would have cost us in the neighborhood of \$100,000.

City Manager Lusk said, "The reason he brought this to the Commission is that there is a very good chance we will exceed \$10,000, our spending authority. The second reason we really made the right decision doing this ourselves instead of having some contractor in here building a building and popping us with a change order."

Public Works Director Milton Hallman introduced Gene Tucker the new Public Works Manager to the Commission.

16. COMMUNICATIONS FROM CITY ATTORNEY

None

17. COMMUNICATIONS FROM MAYOR & COMMISSIONERS

Commissioner Heyman – None

Commissioner Via – Welcome back to John Bozzo, News Journal Reporter and welcomed Mr. Tucker to the City.

Commissioner Byrnes – The Volusia County Council voted to turn the Fire Station in the unincorporated portion of the County over to Ormond Beach. Commissioner Byrnes expressed his sorrow for those residents who worked very hard to keep Holly Hill out of that area and because they wanted the fire station to remain in the County.

Commissioner Mellette – Agreed with Commissioner Byrnes. The City of Holly Hill tried to explain issues to the residents in the unincorporated area and these residents have and got what they voted for.

Mayor Arthur – The County stuck this on their agenda three days before it actually arose so nobody could draw attention to it and didn't even wait for the Local Government Study Commission findings. I think its time we state or bring it to their attention that we are very displeased with the way the County ran this thing. This benefits absolutely no one.

The Volusia League of Municipalities is sponsoring a conference on September 8, 1998 to meet the legislators and encouraged everyone to attend.

Mayor Arthur announced the Special Meeting Wednesday September 9, 1998 at 7:30 p.m.

18. ADJOURNMENT

There was no further business to come before the Commission and the meeting was adjourned at approximately 9:31 p.m.

William D. Arthur, Mayor

ATTEST:

Sue W. Blackwell, City Clerk

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