

**MINUTES
COMMISSION WORKSHOP
CITY OF HOLLY HILL, FLORIDA**

OCTOBER 9, 2007

1. CALL TO ORDER

Mayor Roland D. Via called the workshop to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 8:30 p.m. Attending with Mayor Via were Commissioners John Penny, Gilles Blais, Mark Reed, and Traci A. Anderson. Also attending were the following staff members: City Manager Joe Forte, Community Development Director/City Planner Doug Gutierrez, Finance Director Kurt Swartzlander, Financial Technical Advisor Brenda Gubernator, and Recording Secretary Liz Nelson, Building and Zoning Department.

2. TERM LIMITS FOR BOARDS

Mr. Forte stated the different boards have different terms; some are one year, some are two, some are three years. The Commission will have to decide whether or not they want to place term limits on them. Mr. Forte stated what he would like for the Commission to do for him is to standardize all boards that everybody is a two year term.

Commissioner Reed stated he likes that idea.

Commissioner Penny stated that's what he wrote down.

Mr. Forte stated, and eliminate alternates.

Commissioner Reed stated, okay.

Mr. Forte stated and the reason he says eliminate alternates is they did have a period of time where they couldn't find board members so they had alternates so instead of finding five good people, they found seven not so reliable people. If they are going to have a board of five people or a board of seven people then find people that are dedicated to show up to that meeting once a month. The problem that they run into is they get a vacancy on a board and instead of the Commission appointing somebody to the board they want they end up moving an alternate up. If they want a board, find reliable people to serve on the board and do away with the alternates; two year terms and then the Commission will decide if they want to do limits on those.

Mayor Via asked Ms. Nelson, for the Planning and Appeals Board, how often would she have not had quorum if it wasn't for the alternates?

Ms. Nelson stated in the last nine years, maybe two meetings.

Mr. Forte stated that's the funny thing about alternates, is they have a five member board and two alternates, but a quorum is three.

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Commissioner Reed stated he would like only the Board of Planning and Appeals and only the Community Redevelopment Advisory Board (CRA). He thinks all the other boards, they don't need term limits. The only reason he would ask it for those two is because they affect the future and the development area of the City as opposed to all the other boards.

Commissioner Penny stated he thinks they should do away with the term limits all together. Do away with the term limits, have each board two year terms. If there are no alternates then the Commission is not obligated to move an alternate up to the permanent position and then if the Commission is satisfied with that person's performance, let them stay on. Commissioner Penny also stated that he believes the City Commission should have term limits because if the boards are political appointments. Put the term limits on the Commission and leave the boards where they are; make them two year terms and appoint them for 20 years if they want to.

Mayor Via stated he thinks they found out today, through the election, that term limits took place for Commissioner Blais; the voters made a decision. Any time you take away the right for a voter to vote is wrong, to him and that's what term limits do. Mayor Via mentioned going back to the boards, he likes the idea of two years.

Charlie Sharp, Chairman of the Police Athletic League (PAL) Board, stated the City already has built in a resolution ways to get rid of people or not get rid of people, whether they are aware of this or not. In Resolution 2000-R-43, there is an attendance standard. If they miss two meetings in a row, they are automatically removed from the board and can only be reinstated by the City Commission. If they miss four in a year, they are automatically removed from the board and can only be reinstated by the City Commission by a simple majority. He has called every city in this area, no city has a term limit for their board members for the simple reason that they are all having problems getting people to serve on boards that want to be there and serve the city to make the city advance. Mr. Sharp informed the Commissioners that the board members work hard on these boards. There may be only two that really affect the City but they work on their own time and work to raise money and the PAL Board just recently had a very successful Golf Tournament and raise almost \$7,000 which they split with Ormond Beach's PAL which the monies go into the PAL programs and the elderly. It supports every recreational program in the City, not just PAL but all of them. To come here and think that he is only going to be here for a short period of time really disappoints him. He doesn't think any board should have a term limit.

Commissioner Reed stated he has given this a lot of thought and he thinks the two year solution might be the best solution.

Commissioner Anderson stated the Commission thought about this and it wasn't to insult anybody and she is sorry that it came across like that because it wasn't meant to be like that. It was to, like anything else, change things here and there. She agrees with the two year terms for all the boards.

Mr. Forte stated what he would suggest the Commission does is they do board appointments in the even numbered years so that it's not during an election year this way it overlaps that way and do all the boards, starting in January 2008 of the even numbered years, appoint all your boards that year and they will run for two years and then fill vacancies as they come. This January they would reappoint everybody for two years. With the alternates he wouldn't kick them off the existing boards, he would let them, through attrition, as they fall off, the Commission will not replace them. They will move them up to regular members and then once the alternates are gone, the Commission just won't fill them anymore.

Mayor Via stated to finalize this, what they will be looking at is two year terms starting in January 2008, everybody will automatically go to a two year term. All terms will start over in January 2008 and they will have no alternates but they will accept the alternates that are currently there; they will be grandfathered in but they will die out through attrition. There will be no more listed alternates. Mayor Via asked if there is a member on a board that is disturbing other members, do they have the capability of making a recommendation to the Commission to remove that person from the board?

Mr. Forte stated sure they can but it's...

Commissioner Reed asked what does he mean by disturbing?

Mayor Via stated disruptive.

Commissioner Anderson stated she doesn't think that's going to be a problem.

In other items of discussion:

Commissioner Penny stated if the election night happens to be a City Commission meeting, they need to change the meeting to the Monday before or the week...it shouldn't be the same night.

Mayor Via agreed. Another issue is to, they are going to have two new Commissioners and they need to establish, in the first quarter of next year, a workshop for goal setting and for anything else that's involved both for the CRA Board and for the City Commission. Also, it would be good to have Commission Day this coming year for the new Commissioners before they start discussing the budget.

3. LOCAL BUSINESS TAX RECEIPT

Mayor Via asked Mr. Forte if he has documentation at this time that the Commission will need to workshop it.

Mr. Forte stated he has information. What they are work-shopping is not answers but a workshop for questions to then come back with the direction...

Commissioner Reed suggested that they workshop this fast.

Mayor Via stated that they will go ahead and do this and if necessary, what they can do at the end of this workshop, if they feel there are other questions, they can transfer it to the next workshop and do it again. He is concerned about the people that are here.

(This item continued after the parade permit discussion)

Mr. Forte stated what they are talking about are the terms in which the City charges people for occupational licenses. Liz Nelson handles the occupational licenses through the Building Department and has worked for Ormond Beach and is familiar with their process and this afternoon she made contact with Volusia County because he thinks one of the key issues is to find out how Volusia County charges for their occupational licenses. In September the City sends out the renewals and when staff goes through the renewal process, Ms. Nelson will go through and try and pick up errors or omissions or try to find problems with the licenses as they go out. Ms. Nelson picked up on a couple that were only holding a single occupational license and she then charged for two occupational license where one particular business was doing sales and service. When Ms. Nelson contacted the County today, they actually also do a dual licensing; they do a wholesale, retail sales license and then also a service license. The way the City does it is typical of the way the County provides an occupational license.

Liz Nelson, Building and Zoning Department, mentioned that she spoke with Skip Williams who runs the occupational licenses for Volusia County and they are not licenses, they have one license just different classifications.

Mr. Forte stated they charge multiple classifications under one license.

Ms. Nelson stated the City does that with other businesses. For example, a supermarket could have their merchant, a pharmacy, the bakery – those are classifications and they are charged different for different things. Manufacturing is another one. They manufacture a cabinet shop and they may also sell cabinets; two classifications. A showroom, where they don't manufacture them would just have retail; just one classification. But it goes by what they do and the County does it the same way and so does the City of Ormond Beach.

Mayor Via stated because it was brought to their attention by Gary's Driveline, can she explain the license and classification on that.

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Ms. Nelson stated the classification that Gary's Driveline has, he has two classifications. One is his retail, he sells. Someone can go in and buy a bearing or whatever part someone would need to fix their own vehicle and put it on them self or someone could go in and have Gary's Driveline install and do work, that's service. He repairs and he sells; he has a retail and a service – those are two separate classifications. They would both be charged on one license. That's the majority of the cities and the County does it the same way with all of their licenses.

Gary, from Gary's Driveline, stated he has a County license, State license and he had a City license but now he has to pay a \$12 penalty because he didn't send a check in. He has had this license for 32 years; it's incorporated now. What are they going to call the incorporation now? A sales and service?

Ms. Nelson stated that doesn't have anything to do with the classification.

Mr. Gary stated he hasn't had time to change his sign on the front of his business, which if he needs to he can do that tomorrow for the City if they would like that.

Ms. Nelson stated that wouldn't have anything to do with it.

Mayor Via stated it's not Ms. Nelson personally.

Mr. Forte stated it doesn't matter what the sign says, it matters what the act is; what is being done there.

Commissioner Reed asked Gary how many County licenses does he have.

Gary stated he has eight and eight State licenses.

Commissioner Reed asked if he has two classifications under his County license.

Gary stated, no.

Commissioner Reed asked what is he classified under the County license.

Gary stated Gary's Driveline and Automotive Repair.

Commissioner Reed stated the City is using the County's as an example.

Gary stated, yes.

Commissioner Reed stated there's their example that they are charging Gary one license.

Mr. Forte stated the County was in the same position that the City was. They had some errors and they are going to go through their files and see who they had not charged properly. Mr. Forte stated he would not be surprised if the County issues to Gary's Driveline an additional bill. Mr. Forte stated what his recommendation is going to be for this next year is that as they take the year and go through their charges for services is that they look at all of the City's businesses and see how they're charged and they make sure that they are being charged accordingly.

Mayor Via asked Ms. Nelson how many businesses did she find that were not paying the proper licensing.

Ms. Nelson stated maybe six or seven; not many. She would say maybe 75% to 80% of the occupational license are two to three classifications on their license.

Mr. Forte stated he thinks they should put together, at the staff level, a review of this stuff which would include Ms. Nelson, Ms. Gubernator who has experience and Mr. Harbuck and they will try to decipher something without changing anything yet and then they will come back with some recommendations on consolidating certain classifications and streamlining this.

Commissioner Reed stated he would strongly suggest looking at some of the fees that doctors and lawyers pay. They pay a business license receipt and they have some of the lowest rates and they charge more money than anybody. They have a chimney sweep guy paying the same amount as an attorney. He doesn't think that's right.

Mr. Forte stated they just have to remember as they establish classifications, that also determines what occupation can go in that business.

4. PARADE PERMIT

Commissioner Reed mentioned they don't need a parade permit. The Chief can handle any negotiations which are involved in a fifteen-minute bike parade twice a year at any undue expense. Commissioner Reed stated he doesn't see any City expense on that. He knows that Chief Shinnamon is busy but he has been able to fit it in.

Mayor Via stated it's not just about Mr. Colosimo but all future parades.

Commissioner Reed stated and if they have a parade permit they are opening up the door for a bunch of parades. He doesn't see where they need a bunch of parades. He doesn't think they need the parade permit.

Mayor Via agreed and has stated that before.

Commissioner Penny disagreed. The only difference between the parade that they are going to have in a couple of weeks and if they had a parade permit, is a \$50 charge. He believes they have to have a process to allow staff...otherwise, these are going to come back to the Commission. How long have they talked about this particular parade? Months, right?

Commissioner Anderson stated a year.

Commissioner Penny stated they need to have a policy for staff to administer these permits to allow these parades to happen or not.

Commissioner Reed stated, then why do they have to put expensive and prohibitive terms...

Commissioner Penny stated they can talk about that.

Commissioner Reed stated they want to have a \$50 parade permit and they want to have some kind of insurance protection.

Commissioner Penny stated the tax payers don't pay one dime for whether it's a *Barnum and Bailey* parade or a VFW parade; he doesn't care what parade it is and that they have a \$1 million liability policy with the City as the additional insured. If its \$50, he thinks anybody that is going to have a parade is going to be able to afford the \$50. So, if they need to strike some of the language from the parade permit...

Commissioner Reed stated he thinks all of the administrative fees language where they have hours and hours built in, that was problematic with him because staff can find time in their schedules to do a parade review route; its part of their job, they think about these things all the time.

Commissioner Penny stated he agrees. They keep focusing on the one parade, which happens very quickly. He thinks why that was put in the ordinance was to protect staff and protect the City from someone that comes in and has a parade that takes the whole three hours. For example, if *Macy's* wanted to come and do a parade in the City, staff would have to spend a lot of time on it. He thinks that's why that was in there. He thinks the City needs to protect them self so that if it gets absorbent, they have to have some way to recoup that. He believes that's why it was in there. He believes Chief Shinnamon worked with this and there wouldn't be any costs incurred other than the \$50. Commissioner Penny stated that he would like to have a policy so they don't have to come to the Commission every time and go through this process over and over.

Mayor Via stated Commissioner Penny is asking for a downsized version; he wants a \$50 fee and wants them to pay for whatever may incur.

Commissioner Penny stated pay for whatever expenses there are.

Mayor Via stated, and he wants them to have liability insurance.

Commissioner Penny stated and that's what Mr. Colosimo is doing right now. So, the only difference is \$50. There will be a policy, procedure and process that will help facilitate these things in the future.

Mayor Via asked how much Law Enforcement is going to be needed on U.S. 1 if they are going to do the leap-frog. That's always the question and the City is bound to the three hour minimum; in other words, the City is paying those officers for three hours for using them for a half-hour.

Chief Shinnamon stated it's by contract that they are used for three hours. They are only going to use three Police Officers to do that but they have some things to prepare; they are going to have to cone certain intersections, pre-place...

Commissioner Reed stated once again they are talking about a specific parade.

Chief Shinnamon stated, exactly.

Commissioner Reed stated why don't they talk about a general parade.

Mr. Forte stated lack of reference.

Commissioner Penny stated his concern is if a parade was to gather at some central location and stage for an hour or two hours before the parade, the City may have to set up garbage cans, have Public Works go out and clean up. He wants to make sure they have a way to recoup those expenses. That's his only concern.

Eddie Colosimo, Bikers For First Amendment Rights (B.F.F.A.R.), Ridgewood Avenue, stated they have had two parades; very successful parades that have cost the City nothing. They have paid their way, which they intend to do in the future, should they have another parade after this one. They know what the Veterans are going through and the support they have and don't have. The request for a van was put in front of this Commission as well as many other City Commissioners because they wanted to try to get their Veterans transportation up to Gainesville and it has taken a long time and it will probably take a lot longer. When he was given a request by a Veteran here a while back saying that he had lost 40 pounds in 30-days and was bleeding from his ears, they got a volunteer to get him up to Gainesville for Urgent Care. Their volunteers stayed with him for 24-hours and brought him home. The next day they put together an Urgent Care Program which Commissioner Gilles is aware of and it is up and working and working well as late as this week when a Veteran called them and was stuck in Gainesville in the Emergency Room with no transportation home; they got him a ride within an hour. Mr. Colosimo stated his point is take bureaucracy out of the mix and they can get things done. Sit there and play gods and nothing will happen ever. Get it done; keep it simple! "Commissioner Penny, you're the only one on this Commission that's pushing for this ordinance and I resent it from the standpoint as another violation on our Civil Rights." Any comments?

Mayor Via stated he will make a comment for Commissioner Penny that Civil Rights are to *all* citizens and what the City is concerned about is they can have a special interest group, be it elephants or motorcycles, that could pass on a tax burden to the citizens. All the Commission is trying to do is just make sure, parades are a great thing and the City may even want the parade and may even sponsor it but they have to get two things covered. The City has to be covered and the cost has to be covered and that's what the insurance is all about and the rest of it.

Mr. Colosimo stated the insurance is covered.

Mayor Via stated it all goes towards safety.

Commissioner Reed stated with the parade permit, any white supremacist group, any body that the City doesn't like can come and get a parade permit and fill it out and if they pay the \$50, the City can be stuck with them but as they sit here as a City Commission and we grant an exception or we grant a parade, we are saying, "Okay, you want to have a parade, we don't have any process but we are going to allow you do it." We can do that; if we're willing to take the trouble and spend the time and unfortunately have to deal with it then we can control but when you have a parade permit now you have everyone and their brother coming in here and cause all kinds of problems because they pay the City stub.

Commissioner Penny asked if Commissioner Reed is suggesting...

Mr. Forte stated they can deny it.

Commissioner Reed asked on what basis.

Attorney Simpson stated he doesn't think they would have much right to deny it under either basis because public streets are, with some research he has done as a result of all of this, their roads are like the paramount venue for public expression under the Court. That's how the Courts word it; they word it that way. The City can charge a fee, a reasonable fee, it can't be exorbitant and he would say...they put in the parade permit \$1 million insurance policy. Orlando had a parade permit and it was held invalid in 1983 because they required \$1 million liability policy because of the cost of a \$1 million liability policy.

Commissioner Reed stated it was held invalid.

Attorney Simpson stated, yes. The one unique thing that the City has, which none of the other ones didn't have, is the City gives them the option. They don't have to have a parade permit if they don't want to block the streets. They can still do the parade without coming to the City if they don't want the City's involvement to control the traffic and everything else. The City gives them an option, which the other ones did not seem to do. Maybe the City doesn't have to keep the liability policy at \$1 million; maybe they can bump it down to \$500,000.

Mayor Via stated Commissioner Reed's concern is an original concern of his, if they had a special interest group, that in the past, had been associated with violence, the point is, if the City felt that the public health and safety was going to be greater than, depending on the amount of people they brought in, the City may have to bring in others to help with that parade and there is going to be a cost to it and as long as the cost is borne by the people wanting to do it.

Attorney Simpson stated he is not 100% sure that they can shift all the costs to them the way the Courts have interpreted.

Mr. Colosimo stated in the two parades he has had, has there been an inconvenience or one complaint by any citizen?

Commissioner Reed stated once again, Mr. Colosimo, they have to try to deal with this not specifically to you.

Mayor Via stated, right.

Mr. Colosimo stated he understands but obviously, this is and has been directed at their Bike Week and Biketoberfest parade. The Chief and I had no problem in putting together a compromising position and I am more than willing to work with everybody and I think this is fine; we didn't have a problem. Mr. Colosimo stated he thinks they are making too much to do out of nothing.

Attorney Simpson stated he doesn't want the Commission to think that they have more or less discretion to deny someone the right to use the road, whether they do or don't have a permit process.

Mr. Forte stated they have to abide by the traffic laws.

Attorney Simpson stated the traffic laws are in place right now but he is just saying they can't say, "Well, you're a group that we don't really support your message, you're not allowed to have a parade."

Mayor Via stated the only reason to have this in place is if they want to have traffic control at the intersections. Other than that, they can assemble and have any parade, any place.

Commissioner Penny stated it's not a parade if they abide by the traffic laws.

Attorney Simpson stated, right.

Mr. Colosimo stated if 500 motorcycles go down U.S. 1, which is a Federal highway (U.S. 1), if they proceed down a short distance on any given highway, does any given city have the police power to write that many tickets?

Attorney Simpson asked legally or physically.

Mr. Colosimo stated, physically.

Attorney Simpson stated he will be honest with them, one question that he doesn't know the answer to and because what happened back in September is do we have a legal obligation to provide, through the Police, safety and traffic support when somebody is going to do a parade out there? Do we have that obligation to go out there and do it even if they don't ask for it?

Mr. Forte stated they are obligated to provide public safety.

Attorney Simpson stated that's the one thing he hasn't researched to see. The distinction he has made with all the other cases they have done is to say, "You have the option, don't ask for our help; go do what you want to do; obey the traffic laws." Is there an obligation that the City has that the Courts have imposed to allow...or do they have the right in marching, to violate traffic laws and the City has to provide protection? That's the question he does not know the answer to.

Mayor Via stated before they go any further, he has a point of order and that will be that the regular meeting is now adjourned and he now opens the workshop. Mayor Via asked what the Commission wanted to do with this parade permit.

Commissioner Penny stated his concern is that the City has the policy so everyone is treated equally.

Commissioner Blais stated they need some type of instrument, either a policy or something in black and white.

Commissioner Anderson stated it doesn't matter what the Commission usually says because it comes back again in a month.

Mayor Via stated the question was made earlier by Commissioner Reed saying that if the City doesn't have that policy it comes before the Commission so that they can say either yes or no.

Mr. Forte stated they don't have a policy that says to do that. That's the dilemma that he is in. The City does not have a policy that says a parade applicant gets approved at the staff level or the Commission level. If it comes back before the Commission, what is the Commission's criteria for approval or denial?

Mayor Via informed the Commission that they are going to have to find consensus on this.

Mr. Forte asked do they want a plain, generic policy that states any special event will not cost the City, the taxpayers money and sponsor or coordinator will provide liability insurance.

Commissioner Penny asked when the Wickens come to Hollyland Park, do they give the City a liability policy?

Mr. Forte stated, no. They rent the park and they are under park rental terms. He can bring something back just as a policy and not as an ordinance.

Mayor Via asked does he need a vote on the policy. Will it be in a Resolution?

Mr. Forte stated he will put it on the Consent Agenda.

There was consensus from the City Commission to put some sort of policy on the Consent Agenda.

5. PARKING ON FRONT LAWNS

Mayor Via asked if this is something that the Commission wants to do.

Commissioner Reed mentioned that Lou Schmitt brought this up and it forced another workshop after the Commission had already talked about it. Mr. Schmitt hates the parking on front lawns. Commissioner Reed stated it's not great, he doesn't like it but when they look around the only people who are doing it have no other alternative, what are they going to do?

Commissioner Penny asked has anyone's position changed on this since the last time they talked about it.

Mayor Via and Commissioners Reed and Anderson stated, no.

6. ADJOURNMENT

The workshop officially adjourned at approximately 9:45 p.m.

Attest:

City of Holly Hill, Florida

Valerie Manning
City Clerk

Roland D. Via
Mayor