

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 6:30 P.M. ON MONDAY, DECEMBER 21, 2015.

1. **CALL TO ORDER** - Mayor Hudson called the meeting to order at 6:30 p.m.
2. **OPENING PRAYER** - Father Yves Geffrard of Notre Dame Catholic Mission offered the opening prayer.
3. **PLEDGE OF ALLEGIANCE**
4. **ROLL CALL**

Present: Mayor Linda Hudson; Commissioner Edward Becht; Commissioner Thomas Perona; Commissioner Reginald Sessions

Absent: Commissioner Rufus Alexander

Staff Present: City Clerk Linda Cox
City Manager Nicholas Mimms
City Attorney Robert Schwerer

Motion was made by Commissioner Edward Becht, seconded by Commissioner Thomas Perona to excuse Commissioner Rufus Alexander from the City Commission meeting.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions, Mayor Linda Hudson

Passed

5. **APPROVAL OF MINUTES**

- a. Approval of minutes from the December 7, 2015 regular meeting.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Edward Becht to approve the Minutes of the December 7, 2015 City Commission meeting.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions, Mayor Linda Hudson

Passed

6. **PROCLAMATIONS** - There were no proclamations.

7. **LETTERS TO COMMISSION** - The following letters will be kept on file at the City Clerk's office.

- a. Letter of appreciation from Robert. P. Greene recognizing the appointment of Officer Al Garcia as their neighborhood sentry and commending his professional demeanor, positive attitude and the positive role model he creates.
- b. Letter of appreciation from Pam Gillette, Main Street Fort Pierce to the Mayor and Commissioners, City Manager, Police Chief and Public Works for their support of the 27th Annual Sights and Sounds on Second Festival and Parade.

8. COMMENTS FROM THE PUBLIC ON AGENDA ITEMS NOT REQUIRING PUBLIC HEARINGS -

Rick Reed - Items 9d, 9e, 9i, 12b, 12c, 12d
Rev. John Lee - Items 12b, 12c, 12d

9. CONSENT AGENDA

Motion was made by Commissioner Reginald Sessions, to postpone items **12b, 12c** and **12d** until Commissioner Alexander returns.

Motion FAILED due to lack of second.

- a. Request to waive interest, penalties, and administrative fees in the amount of \$134,840.00 for code enforcement lien against 2020 S 3rd Street, Ft. Pierce, FL, Parcel ID 2415-801-0024-000-3, previously owned by Rachel Nazario, 2020 S 3rd Street, Ft. Pierce, FL 34950 and currently owned by Cariann D. Martin, 374 NE Genessee Avenue, Port St. Lucie, FL 34983 \$21,510.58.
- b. Approval of Subordination of Utility Interest Agreements between the State of Florida, Department of Transportation and the City of Fort Pierce, Florida for the use and benefit of Fort Pierce Utilities Authority, as for the Midway Road widening project.
- c. Approve staff recommendation to award Request for Proposal #2016-003 - Banking Services to Harbor Community Bank.
- d. Approval of Settlement Agreement in K & K II, Inc. v City of Fort Pierce (Case #562013CA002183 BC) in the amount of \$87,500.00.
- e. Approval of Employment Agreement with Nicholas C. Mimms, City Manager.
- f. Approval of blanket purchase orders for FY 2016 for the Police Department in the total budgeted amount of \$288,131.00.
- h. Approve the purchase by the police department of three (3) Segways with two accessory packages in the total amount not to exceed \$35,886.90 .
- i. Approval of the sale of fourteen (14) mixed performance mortgage loans to Harbor Community Bank in the amount of \$729,300.00.
- j. Approval to provide a net \$50 holiday bonus to each employee.

Mayor Hudson pulled item **9d**.

Commissioner Becht pulled item **9i**.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Edward Becht to approve items **9a, 9b, 9c, 9e, 9f, 9g, 9h** and **9j**.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions, Mayor Linda Hudson

Passed

As to item **9d**, Mayor Hudson stated that she was abstaining from this item due to a potential conflict, her brother-in-law is listed as co-counsel.

Commissioner Becht stated that he is supporting this item because it was endorsed to seek the settlement and it is a good business move for the City.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Edward Becht to approve item **9d**.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions

Other: Mayor Linda Hudson (ABSTAIN)

Passed

Mayor Hudson filed form 8B as required.

As to item **9i**, Commissioner Becht stated that we were selling a batch of mortgages at a discount similar to others in the industry; the value of the properties is less than the face value of the mortgages. We have a chance to get \$730,000 back into the City's coffers and it can be used in the community. We are doing good by taking this action.

Commission discussion included the Harbor Community Bank presentation at the Conference Agenda, how the discount received is sure to be earned, and that they are comfortable that this is the right thing to do. It is sad that the program did not work out as it should have and the City should learn from past errors. Nicholas Mimms, City Manager, confirmed that there should be no penalty by the federal government and that we should be able to receive funds in the future.

Motion was made by Commissioner Edward Becht, seconded by Commissioner Thomas Perona to approve item **9i**.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions, Mayor Linda Hudson

Passed

10. PUBLIC HEARINGS

- a. Ordinance No. 15- 057 voluntarily annexing property located on Oleander Avenue just north of Kanner Drive (parcel number 2427-601-0010-000-5). **SECOND READING**

Clarissa Davis, Planner, appeared and was available for questions.

Mayor Hudson opened the public hearing.

Seeing no one, Mayor Hudson closed the public hearing.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Edward Becht to approve item **10a**.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions, Mayor Linda Hudson

Passed

- b. Review and approval of an application for a Waiver of Distance, submitted by Property Owners, Bamboo Palms LLC, Applicant, Fraternal Order of Eagles Aerie #3582 to establish an 11C alcoholic beverage license for their Non-profit club at 1717 S. US Highway 1, Fort Pierce, FL. The property is zoned General Commercial (C-3), (Parcel ID 2415-311-0004-000-3).

Kori Benton, Senior Planner, gave a brief presentation and was available for questions.

Mayor Hudson opened the public hearing.

Seeing no one, Mayor Hudson closed the public hearing.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Edward Becht to approve item **10b** with staff conditions.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions, Mayor Linda Hudson

Passed

- c. Ordinance No. 15-058 - Amending Code Section 13-73 (c) to allow the Retirement Board to select their own attorney with the approval of the City Commission. FIRST READING

Johnna Morris, Finance Director, gave a brief explanation of the amendment.

Mayor Hudson stated that she believes that it is premature since we are in the process of choosing a City Attorney.

Commissioner Becht preferred that the item is postponed until a future City Commission meeting when all Commissioners are available. He would also like to have the next City Attorney have a say in the matter. He believes that Jim Walker should be the person to do this work. We are ultimately looking for cohesive delivery of legal services across the needs of the City.

Commissioner Perona stated that the Commission should have the ability to change the attorney to protect the assets from the City. He would like the discussion to continue.

Motion was made by Commissioner Edward Becht, seconded by Commissioner Thomas Perona to postpone item **10c** to the January 19, 2016 City Commission meeting.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions, Mayor Linda Hudson

Passed

11. MISCELLANEOUS REPORTS & REQUESTS

- a. Monthly Financial Report for the Month Ending November 30, 2015

Johnna Morris, Finance Director, reported that all funds with the exception of the golf course have positive unrestricted available resources. The unusual rain and time of year impact the golf course numbers.

12. CITY COMMISSION

- a. Consideration of Application for Appointment to Communitywide Council, submitted by Mr. John Kevin Griffin. - This item will be brought back at the next City Commission meeting in the form of a Resolution.
- b. Request for Reimbursement of Legal Fees and Costs in the amount of \$8,875.07 associated with the defense of complaints filed with the Commission on Ethics against Robert Schwerer which were dismissed.

Nicholas Mimms, City Manager, stated that the request for reimbursement of legal fees in association with ethics complaints have been reviewed by an independent outside firm and the recommendation is to reimburse legal fees as requested. The recommendation is for this items 12b, 12c and 12d.

Commissioner Becht clarified that there is one person who has filed voluminous complaints that have continued to be found unworthy. In an effort to refute some of the statements made, as there has been intentional misrepresentation, if we were not in the position of public official, the charges would not have been brought. It is quite prudent to hire an attorney that has knowledge of the board as well as the allegations. The real issue should be if we are to pursue fees against the person who is filing the complaints.

Commissioner Sessions stated that he wanted to postpone the items in order to have the input of the entire Commission and noted that according to the memo accompanying the request, there is no state statute that specifically addresses reimbursement of expenses incurred in responding to an ethics complaint. The citizens should not be held responsible.

Robert Schwerer, City Attorney, confirmed that if it is found that there was no probable cause and if serving in the public purpose, the public official has a right to be reimbursed. It is not a question of discretion of the Commission. The City Attorney's position is considered a public official by law.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Edward Becht to approve item **12b**.

AYE: Commissioner Edward Becht, Commissioner Thomas Perona, Mayor Linda Hudson

NAY: Commissioner Reginald Sessions

Passed

- c. Request for Reimbursement of Legal Fees and Costs in the amount of \$3,015.00 associated with the defense of complaints filed with the Commission on Ethics against Thomas Perona which were dismissed.

Commissioner Perona stated that in the six years he has been Commissioner, there have been ongoing pending investigations, and in the past year they are all filed by Rick Reed. Using the formal complaint process to intimidate and retaliate against those in government is wrong. He would rather spend the money on youth, community programs or life-saving equipment for police officers. He encouraged citizens to report malfeasance by government leaders as their obligation and right.

Commissioner Sessions stated that, for the record, he would prefer to have all Commission members present.

Motion was made by Commissioner Edward Becht, seconded by Mayor Linda Hudson to approve item **12c**. Mayor Hudson passed the gavel to Commissioner Becht for the purpose of seconding the Motion.

AYE: Commissioner Edward Becht, Mayor Linda Hudson
NAY: Commissioner Reginald Sessions
Other: Commissioner Thomas Perona (ABSTAIN)
Passed

Commissioner Perona filed form 8B as required.

- d. Request for Reimbursement of Legal Fees and Costs in the amount of \$2,325.00 associated with the defense of a complaint filed with the Commission on Ethics against Edward Becht which has been dismissed.

Commissioner Becht stated that after these complaints are made, it ties up his time as well as the the staff's time, and that may have been the intent; to move focus off of City business to taking care of defending ourselves against these allegations. Now the City will have to spend over \$15,000 to address bogus complaints.

Mayor Hudson added that we should not lose sight of the discussion. In the process of doing their jobs, people were wrongly accused and, through the process set up by the state, found not guilty. The expenses they incurred were at no fault of their own and beyond their control.

Commissioner Perona reiterated the seriousness of an ethics violations and how it can follow you throughout your career. It is an unfortunate part of the role and hopefully this does not discourage anyone from running for Mayor or Commissioner; noting that if you are afraid to be sued, you may not do the best job and make solid decisions for the community.

Commissioner Sessions stated that if he was in the same situation, he would pay the bill himself and not ask the taxpayers.

Motion was made by Commissioner Thomas Perona, seconded by Mayor Linda Hudson to approve item **12d**. Mayor Hudson passed the gavel to Commissioner Sessions for the purpose of seconding the Motion.

AYE: Commissioner Thomas Perona, Mayor Linda Hudson
NAY: Commissioner Reginald Sessions
Other: Commissioner Edward Becht (ABSTAIN)
Passed

Commissioner Becht filed form 8B as required.

- 13. **COMMENTS FROM THE PUBLIC** - There were no comments from the public.

- 14. **COMMENTS FROM THE CITY MANAGER**

a. City Manager's Departmental Activity Report

Nicholas Mimms, City Manager, reported that staff has been getting out into the community and attending community events. He asked the Chief to give an update on a recent crime. Chief Diane Holey-Burney was proud to report that a recent murder was solved with the support of the community. It shows that things are changing and citizens are more willing to work with the police department for a safer Fort Pierce. Mr. Mimms continued that building relationships with and gaining the trust of the community is one of the City's main priorities.

The City Attorney search is moving forward, noting that the consensus was that the applicant is required to live within the City limits, though the specific time frame for residency will be determined during the negotiation process. There will be a Job Fair on January 14, 2016 at Percy Peak Gymnasium with over 50 vendors that are hiring in participation. Any vendors that are interested should contact Libby Woodruff, Interim Urban Redevelopment Manager.

15. COMMENTS FROM THE COMMISSION

Commissioner Perona wished everyone a Merry Christmas and encouraged everyone to enjoy the light show and music downtown.

Commissioner Sessions wished everyone a Merry Christmas and Happy New Year. He also noted that he was happy to see the lights up on Avenue D.

Commissioner Becht stated that after speaking with Gene Serig, parade coordinator, that AAA told him our parade was the longest in the state of Florida at two (2) hours and two (2) miles long. The probable calculation given for attendance was over 10,000. He wished everyone a Merry Christmas and encouraged all to shop local.

Mayor Hudson gave her best wishes to the citizens of Fort Pierce and looks forward to a Happy New Year in 2016.

16. ADJOURNMENT - There being no further business, Mayor Hudson declared the meeting adjourned at 8:05 p.m.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER