

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, SEPTEMBER 16, 2019.

**1. CALL TO ORDER**

Mayor Hudson called the September 16, 2019 Regular Meeting of the City Commission to order at 6:30 PM.

**2. OPENING PRAYER - Pastor Brian Jemison, Common Vineyard Church**

**3. PLEDGE OF ALLEGIANCE**

**4. ROLL CALL**

Present: Mayor Linda Hudson; Commissioner Rufus Alexander; Commissioner Jeremiah Johnson; Commissioner Thomas Perona; Commissioner Reginald Sessions

Staff Present: City Clerk Linda Cox  
City Manager Nicholas Mimms  
City Attorney Peter Sweeney

**5. APPROVAL OF MINUTES**

- a. Approval of the minutes from the August 19, 2019 regular meeting.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve the minutes from the August 19, 2019 regular meeting.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions  
Passed

**6. PROCLAMATIONS**

Mayor Hudson issued the following Proclamations:

- a. Constitution Week Proclamation being received by Linda Gallup of Cora Stickney Harper Chapter National Society Daughters of the American Revolution.
- b. Suicide Prevention Awareness Month Proclamation being received by Deb Dreher of New Horizons of the Treasure Coast.
- c. Hunger Action Month Proclamation being received by Cynthia Costigan and Tammy Pierce of the Treasure Coast Food Bank.

**7. LETTERS TO COMMISSION**

The following letters will be kept on file in the City Clerk's Office:

- a. Compilation of thank you notes from residents and media in appreciation of Shyanne Helms, Communications + Economic Development Manager's daily hurricane advisories.
- b. Letter from Hazel Hoylman, In the Image of Christ, thanking Sheila Wise, Reporting and Grant Specialist for her assistance, which greatly improved their intake and distribution documentation.

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

Any person who wishes to comment on an agenda item which is not under Public Hearings on the Agenda may be heard at this time and must sign up to speak in advance. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

Mike Perri - Item 13a

**9. ADDITIONS OR DELETIONS TO AGENDA AND APPROVAL OF AGENDA**

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to remove items 12g and 12h at the request of the applicant and set the Agenda.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

**10. MISCELLANEOUS REPORTS**

**11. CONSENT AGENDA**

- a. Approval of SHI for Microsoft Enterprise Renewal in the amount of \$62,902.84.
- b. Request to reduce code enforcement lien in the amount of \$236,440.00 against 1611 N 13th Street, Fort Pierce, FL 34950 - Parcel ID Number 2404-512-0072-000-3, previously owned by Idella B. Forbes (EST), P. O. Box 1284, Fort Pierce, FL 34954 and currently owned by Michael & Anthony Siena, East Coast Property Associates LLC, 17893 N 88th Road, Loxahatchee, FL 33470 to \$1,800.00 payable in 30 days from date of City Commission meeting and approval.
- c. Approve grant award for Tiffanie Grant, owner of Kingdom Kreations by Tiffanie LLC, in the amount of \$9337.64, as an eligible recipient under the City of Fort Pierce Historic Avenue D Business District Small Business Startup/Relocation Grant Program, subject to City Attorney approval.
- d. Approve the Memorandum of Understanding between St. Lucie County, the City of Ft. Pierce Police Department and the St. Lucie County Sheriff's Office for a Justice Assistance Grant (JAG-Edward Byrne Memorial Grant) for 2019 funds to divide the 2019 funds in the total amount of \$41,135 to be shared equally between the City of Fort Pierce and St. Lucie County Sheriff's office (\$20,567.50 for each agency) for agency technology improvements.
- e. Approve award of the City Hall Parking Garage Restoration construction contract to the low bidder, Matcon Construction Services, Inc., in an amount not to exceed \$383,821.00.
- f. Approval of a Site Plan extension with Development Review & Design Review for the Fresh Wind Fresh Fire Church located at 400 North 26th Street. The new expiration date would be June 4, 2020.

Motion was made by Commissioner Rufus Alexander, seconded by Commissioner Reginald Sessions to approve items 11a, 11b, 11c, 11d, 11e, 11f.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

**12. PUBLIC HEARINGS**

- a. Presentation and Public Hearing for the 2019-2020 Community Development Block Grant (CDBG) Action Plan

Caleta Scott, Grants Administration Manager, provided an overview for the 2019-2020 Community Development Block Grant (CDBG) Action Plan for activities approved in the five-year consolidated plan, which include: economic development; public services; public facilities; owner-occupied housing rehabilitation assistance; and, neighborhood revitalization. The total grants approved are in the amount of \$561,245 and break down as follows:

Economic Development in the amount of \$130,500 for the Lincoln Park Business Expo; Annual City of Fort Pierce Job Fair; Marketing and Advertising for Small Businesses; Small Business Educational Workshops; and, Small Business Startups.

Public Services in the amount of \$80,000.00 for the City of Fort Pierce Summer Camp; Art of Fort Pierce Art Camp; Grants for non-profit public service organizations; and, PSA Grants.

Public Facilities in the amount of \$20,000.00 for improvements to playgrounds; parks; public facilities; and, community gardens.

Owner-Occupied Housing Rehabilitation Assistance in the amount of \$40,000.00 for the Weatherization Program in partnership with FPUA; World Changers Organization Visit; and, Paint Our Town programs.

Neighborhood Revitalization in the amount of \$179,280 for promotion of local arts and cultural heritage, commercial facades, and community-based development organizations (MSFP and LPMS).

Program Administration in the amount of \$111,465 for management; coordination; oversight of programs; and, Fair Housing workshops.

This is the fourth year in a five-year plan. There are no plans to deviate from the original plan. We expect to receive a revenue increase of \$7,947.00. A community survey is also available on the City of Fort Pierce website as well as on social media.

Mayor Hudson opened the Public Hearing. Seeing no one, Mayor Hudson closed the Public Hearing.

- b. Public Hearing on the proposed increase of \$15.00 to the Stormwater Utility Assessment Fee.

Mr. Nick Mimms, City Manager commented that this is one of the City of Fort Pierce's strategic initiatives: to enhance and increase revenue of our stormwater management utility.

Jack Andrews, City Engineer, provided an overview of the Stormwater Utility Assessment Fee. This public hearing is the final step to the Resolution which was passed. This will be the first increase in 14 years. The proposal is to increase the current assessment by \$15.00 annually. This assessment, when combined with the \$.005 surtax, will allow for a project to be fully completed for all phases: paving; drainage; water; stormwater; etc., as well as various water quality projects. An example of a project would be 17<sup>th</sup> Street between Orange Avenue and Avenue D. Next would be Avenue A and Avenue B between 7<sup>th</sup> and 8<sup>th</sup> Streets. FPUA recently went in and upgraded the sewer and water in the streets, and now we will be able to complete the drainage portion of that project, complete with paving.

Mayor Hudson opened the Public Hearing.

Mike Perri – Opposed

Seeing no one else, Mayor Hudson closed the public hearing.

Commissioner Sessions requested staff address the issue that this proposal amounts to a 28% increase. Mr. Andrews stated that this is a non ad-valorem assessment. Commissioner Perona said this increase should have occurred years ago, but the financial climate was not conducive to an increase at that time and that our stormwater protection is extremely important with turbulent weather just off our coast. A review of this assessment should be done every 4-5 years and not wait in the future for 14 years to pass.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Reginald Sessions to approve Item 12b.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions  
Passed

- c. Ordinance 19-038 Levying and collecting taxes for Fiscal Year beginning October 1, 2019 and Ending September 30, 2020, adopting Final Millage Rate. FIRST READING

City Clerk Linda Cox introduced the ordinance, read in its entirety, into the record.

**ORDINANCE NO. 19-038 - AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA; PROVIDING FOR THE LEVYING AND COLLECTING OF TAXES FOR THE CITY OF FORT PIERCE, FLORIDA, FOR FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020, FOR THE PURPOSE OF RAISING SUCH AMOUNT AS MAY BE NECESSARY TO CARRY ON THE GOVERNMENT OF SAID CITY DURING SAID FISCAL YEAR AND TO PAY FUNDS SO COLLECTED INTO THE ACCOUNTS PROVIDED THEREFOR; ADOPTING THE CITY OF FORT PIERCE 2019-20 FISCAL YEAR FINAL MILLAGE RATE; AND PROVIDING FOR AN EFFECTIVE DATE.**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA:

SECTION 1. The final millage rate of the City of Fort Pierce, Florida, for the Fiscal Year 2019-20 is hereby levied at the rate of 6.9000 per thousand dollar valuation for general City purposes; said rate being in excess of the roll-back rate by 7.21%.

SECTION 2. The City Commission of the City of Fort Pierce, Florida hereby levies a tax of 6.9000 per thousand dollar valuation on all real and personal property within the corporate limits of said City, subject to tax on the first day of January 2019, provided however that such 6.9000 shall not be levied upon property in the City of Fort Pierce exempt under state statute or federal constitution.

SECTION 3. That the City Manager is hereby instructed and directed to certify to the St. Lucie County Property Appraiser the above and forgoing enumerated Millage to be levied for all purposes, for the 2019-20 fiscal year in the said City of Fort Pierce, Florida, pursuant to the provision of the laws of the State of Florida and the Charter of the City of Fort Pierce.

SECTION 4. This ordinance shall be and become effective October 1, 2019.

Nick Mimms, City Manager provided an overview and stated that this was a successful budget preparation process; we've held workshops; and, have prepared a balanced budget.

Mayor Hudson opened the Public Hearing. Seeing no one, Mayor Hudson closed the Public Hearing.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve Item 12c. Ordinance No. 19-038.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

- d. Ordinance 19-039 Adopting a Final Budget for Fiscal Year 2020, beginning October 1, 2019 and ending September 30, 2020. FIRST READING

City Clerk Linda Cox introduced the ordinance, read in its entirety, into the record.

**ORDINANCE NO. 19-039** - AN ORDINANCE OF THE CITY OF FORT PIERCE, FLORIDA; ADOPTING A FINAL BUDGET FOR THE CITY OF FORT PIERCE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019, AND ENDING SEPTEMBER 30, 2020; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA:

SECTION 1. The City Commission of Fort Pierce, Florida after having held a public hearing, hereby adopts as its final budget for the operation of the government of said City for the fiscal year beginning October 1, 2019 and ending September 30, 2020, the estimates made by the City Manager of said City presented to the City Commission on September 9, 2019, which detailed amended estimates are now on file with the City Clerk and the Director of Finance.

SECTION 2. That it shall be the duty of the City Manager to set up the aforesaid appropriation of revenues and expenses on the account records of said City, to keep such accounts thereof, as required by the Charter of said City, as may be directed from time to time by the City Commission.

SECTION 3. This ordinance shall be and become effective October 1, 2019.

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 Reginald Sessions to approve item 12d. Ordinance #19-039.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

- e. Quasi-Judicial Hearing - Review and approval of an application for Waiver of Distance for Beer and Wine Consumption, submitted by Robert Musser, to open a new restaurant with 2COP Alcoholic Beverages License at 1126 Colonnades Drive, Fort Pierce, Florida. The property is zoned Tourist Commercial (C-5), Parcel ID: 2401-501-0331-220-2.

Mayor Linda Hudson asked all present to listen carefully to what City Attorney, Peter Sweeney, would read regarding Quasi-Judicial Hearings as they apply to all subsequent Quasi-Judicial Hearings tonight.

Before commencing this Quasi-Judicial Hearing, Peter Sweeney, City Attorney, reminded the City Commission that they serve in both a legislative and quasi-judicial role. When acting as a legislative body, the commission engages in law-making activity by passing laws and establishing policies. When acting as a quasi-judicial body, the commission applies those laws and policies and is held to stricter procedural requirements.

Quasi-judicial proceedings are less formal than proceedings before a circuit court but are more formal than the normal commission meeting. Quasi-judicial proceedings must follow basic standards of notice and due process; and, decisions must be made based on competent substantial evidence.

Therefore, Commissioners have a duty to conduct the quasi-judicial proceedings more like judges than legislators. That is why the commission has established the uniform procedures for quasi-judicial hearings that will be followed this evening.

Mayor Linda Hudson called the proceeding to order.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander – none.  
Commissioner Johnson - none.  
Commissioner Perona - none.  
Commissioner Sessions - none.  
Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation: Maria Lewicka, Planning Department provided an overview of the application for Waiver of Distance. Ms. Lewicka provided location maps as well as a zoning map which indicates the subject property is zoned C-5, tourist-commercial. The subject restaurant is located approximately 600 feet from the Pelican Yacht Club; 1,150 feet from On the Edge Bar & Grill; and, 1,200 feet from Goodfellas Pizza. The proposal is consistent with the City's Land Development Code and Comprehensive Plan. 154 Notifications were sent to neighboring properties. Staff recommends approval of the Waiver of Distance, with the following one condition: Provide a lighting plan or photometric survey that complies with City Code Section 22-60(j)(1)d.

Applicant, Mr. Robert Musser, sworn has no questions for Staff.

Applicant's Presentation: Mr. Musser stated he is finding it difficult to comply with the lighting requirements due to the restaurant facing a condominium complex and not wanting to light up the lot "like a stadium". They are still trying to find a solution and is working with a lighting engineer who is developing different scenarios to meet the three-foot candle requirement.

The Commission inquired as to whether the condominium has site lighting in their lot. Mr. Musser was unsure. It was inquired as to why a lighting requirement is now imposed since the location has historically been a restaurant. Mr. Musser stated the last restaurant was closed for over one year, and consequently, he must meet all of the current code requirements.

Staff had no questions for Applicant.

Public comment:

John Jacobs, sworn – Supports Application

Applicant has no further comments.

Mayor Hudson closed the hearing for public comments.

The Commission is pleased to see vacant building being occupied and servicing the residents of the area. The Commission discussed the lighting issue and potential negative impact for the neighbors. Mr. Mimms stated that staff does not act as lighting engineers or have photometric qualifications. Staff's charge is to implement and follow the codes of the City of Fort Pierce. It is up to the applicant to provide the modifications as required by code. Mayor Hudson stated it is the intention of this discussion to be certain the parking lot has proper lighting, but not to impose negative effects on the surrounding neighbors in order to satisfy a code requirement. Planning Director Jennifer Hofmeister stated that this code requirement is related to, and a protection for the serving of alcohol at the subject location. If this requirement is to cause undue hardship, staff could work with what the purpose and intent of this code requirement is to provide safety for patrons. A light shield is an option to protect the neighbors. Mr. Mimms suggested that a directional plan can reduce the effect of the light going outside the boundary. A modification to the existing code requirement may set an unwanted precedence in the future. Options are available to the applicant.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Reginald Sessions to approve item 12e., Waiver of Distance with one (1) condition: to provide a lighting plan or photometric survey that complies with City Code Section 22-60(j)(1)d.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

- f. Quasi-Judicial Hearing - Application for Conditional Use with No New Construction submitted by property owner, Commonwealth Multi-Properties USA Inc. and Applicant, Architectonic Inc. - Mike Menard, to operate an Arcade Amusement Center with 65 machines at 3220 S. US Highway 1, Fort Pierce, FL. The property is zoned General Commercial (C-3) and has a Parcel ID of 2427-123-0013-040-1.

Mayor Hudson opened the public hearing and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeny has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - none.

Commissioner Johnson - none.

Commissioner Perona – yes, a conversation with staff.

Commissioner Sessions - none.

Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation: Mr. Vennis Gilmore, Planning Analyst provided an overview of the application for Conditional Use with No New Construction to operate an Arcade Amusement Center with 65 machines. Mr. Gilmore provided a site area map and discussed the general location and stated it is zoned as C-3 commercial. The project is consistent with the City's Land Development Code and Comprehensive Plan. Staff recommends approval with one condition: Provide a Unity of Title or Shared Access Agreement prior to the approval of a Business Tax License to assure that the current parking calculation is in compliance with City Code 22-71(b)(12). 214 notifications were sent to adjacent property owners with 5 in favor, 15 in opposition and one with no comment.

Commission Questions. The Commission inquired as to what the reasons were for the opposition. Mr. Gilmore said a resident of the Condos was opposed because the location was too close to her residence. Others were opposed to gambling.

Applicant Questions for Staff: Mr. Mike Menard, sworn had no questions for staff.

Applicant's Presentation: Mr. Menard provided an overview of his application. Mr. Menard stated they will comply with the one condition that staff recommended. He has a shared parking agreement ready to be recorded upon approval from the Commission.

Commission Questions: The Commission inquired as to renovations to be completed. Mr. Menard stated they are acquiring three office locations to make the one location. The property will be undergoing renovations for ADA and code compliance.

Staff had no questions for Applicant.

Public Comment: none.

Mayor Hudson closed the hearing for public comment.

Motion was made by Commissioner Thomas Perona, seconded by Mayor Linda Hudson to approve item 12f. with the one (1) Staff condition: to provide a Unity of Title or Shared Access Agreement prior to the approval of a Business Tax License to assure that the current parking calculations are in compliance with City Code 22-71(b)(12).

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions  
Passed

- g. PULLED AT THE REQUEST OF THE APPLICANT - Quasi-Judicial Hearing - Review and approval of an application for Subdivision (Final Plat), submitted by property owner, Premier Hospitality, Inc, & applicant/representative Richard Laventure of Laventure & Associates, Inc to subdivide 5.79 acres of land into three parcels at or near 6505 Metal Drive in Fort Pierce, FL. The property is zoned General Commercial (C-3). Parcel ID: 2324-341-0002-000-3.
- h. PULLED AT THE REQUEST OF THE APPLICANT - Quasi-Judicial Hearing - Application for Site Plan and Design Review submitted by property owner, Premier Hospitality, Inc, and the applicant/representative, Richard Laventure, of Laventure & Associates, Inc to construct a 58,083 square foot, four-story, 95 room Hotel at 6505 Metal Drive, Fort Pierce, FL. The property is zoned General Commercial (C-3). Parcel ID: 2402-501-0001-010-8.
- i. Quasi-Judicial Hearing - Ordinance 19-040 - An Ordinance by the City Commission of the City of Fort Pierce, Florida; Rezoning eight properties generally located at or near the east side of South Jenkins Road, approximately 1,000 feet south of State Road 70 from General Commercial (C-3) and Medium Density Residential (R-4) to Planned Development ( PD); further approving a Development Plan pursuant to Section 22-40, providing for a severability clause; providing for repeal of ordinances or parts thereof in conflict herewith; and providing for an effective date (First Reading).

Mayor Hudson opened the public hearing and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeny has read the legal requirements into the record.

City Clerk Linda Cox introduced the Ordinance, read by title only, into the record.

#### **ORDINANCE NO. 19-040**

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; REZONING EIGHT (8) PROPERTIES GENERALLY LOCATED AT OR NEAR THE EAST SIDE OF SOUTH JENKINS ROAD, APPROXIMATELY 1,000 FEET SOUTH OF STATE ROAD 70 FROM C-3, GENERAL COMMERCIAL AND R-4, MEDIUM DENSITY RESIDENTIAL, TO PD, PLANNED DEVELOPMENT; FURTHER APPROVING A DEVELOPMENT PLAN PURSUANT TO SECTION 22-40, PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and

asked City Clerk to call the roll:

Commissioner Alexander - none.  
Commissioner Johnson - yes.  
Commissioner Perona – yes.  
Commissioner Sessions - none.  
Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation: Mr. Brandon Creagan, Planner, provided an overview of Ordinance 19-040 which is for a zoning map amendment for the east side of South Jenkins Road from C-3, general commercial and R-4, medium density residential to PD, planned development. The Planning Board unanimously approved the request; it is consistent with the City Code and Comprehensive Plan; and, does not adversely affect the public health, safety, convenience and general welfare. Mr. Creagan described the PD Development Plan. 71 notifications were sent to property owners within 500 feet. One was returned in favor and two in opposition. Traffic concern was identified in one of the letters of opposition. Staff recommends approval of the Ordinance 19-040, Zoning Atlas Map Amendment with one condition: to provide an open and accessible location within the boundaries of the Neill Farms subdivision shall be provided for the specific purpose of a designated school bus drop off/pick up site.

Commission Questions: The Commission inquired about a public transportation bus stop near this development. Mr. Creagan stated that is determined by St. Lucie County. Commission inquired about inbound and outbound lanes on South Jenkins Road and McNeill. Mr. Creagan deferred to the Applicant.

Applicant's Presentation: Mr. Brian Nolen, sworn, on behalf of the Applicant wanted to thank the staff for their assistance. The project team is present for any questions. Mr. Nolen concurs with the staff on their recommendation of the one condition and the TRC for their review and approval. The "Neill" name will not be used in the project. The development will be called Avalon Crossing. South Jenkins and McNeill will both have a turn-in lane.

Commission had no further questions for the Applicant Representative.

Staff had no questions for the Applicant Representative.

Public Comment:

Marty Sanders – Supports Ordinance 19-040 with Staff's Condition.

Mayor Hudson closed the hearing for Public Comment.

Motion was made by Commissioner Reginald Sessions, seconded by Commissioner Thomas Perona to approve item 12i., Ordinance 19-040 with one (1) condition: the provision of an open and accessible location within the boundaries of the Avalon Crossing (f/k/a Neill Farms) subdivision shall be provided for the specific purpose of a designated school bus drop off and pick up site.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

- j. Quasi-Judicial Hearing - Review and approval of an application for Subdivision (Preliminary Plat), submitted by property owner, Neill Farms FP, LLC and the applicant/representative, Brian Nolan, of Lucido & Associates, to subdivide 74.19 acres of land (eight parcels) into one parcel at or near the east side of South Jenkins Road, approximately 1,000 feet south of State Road 70 in Fort Pierce, FL. The properties are zoned General Commercial(C-3) (two parcels) and Medium Density Residential ( R-4) (six parcels). Parcel ID: 2419-323-0001-000-1, 2419-323-0002-000-8, 2419-701-0001-000-1, 2419-311-0002-000-1, 2419-313-0001-010-3, 2419-314-0002-000-0, 2419-313-0002-000-7, 2419-313-0001-000-0.

Mayor Hudson opened the public hearing and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeny has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - none.  
Commissioner Johnson - none.  
Commissioner Perona – yes.  
Commissioner Sessions - yes.  
Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation: Mr. Brandon Creagan, Planner, provided an overview of the Preliminary Plat for Subdivision titled Avalon Crossing. Mr. Creagan identified the mapped location. This application meets the criteria as specified in Chapter 18 of the Code of Ordinances. This application is consistent with Land Development Code and Comprehensive Plan and is for 79.14 acres. Staff recommends approval subject to one condition: that prior to the submittal of the Final Plat, the applicant shall address all of the Engineering Comments on the Plat document.

Commission had no questions for Staff.  
Applicant Representative had no questions for Staff and nothing further to add.  
Staff has no questions for Applicant Representative.

Public Comment: None.

Mayor Hudson closed the hearing for Public Comment.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Rufus Alexander to approve the application for Subdivision (Preliminary Plat) with Staff's one condition: that prior to the submittal of the Final Plat, the applicant shall address all the Engineering Comments on the Plat document.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions  
Passed

- k. Quasi-Judicial Hearing - Ordinance 19-041 - An Ordinance by the City Commission of the City Of Fort Pierce, Florida; Rezoning property generally located between Glades Cut Off Road & Bandy Boulevard approximately 1,100 feet east of Selvitz Road from St. Lucie County Industrial Heavy (IH) to City of Fort Pierce Planned Development ( PD); further approving a Development Plan pursuant to Section 22-40, providing for a severability clause; providing for repeal of ordinances or parts thereof in conflict herewith; and providing for an effective date.

City Clerk Linda Cox introduced the Ordinance, read by title only, into the record.

**ORDINANCE NO. 19-041**

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; REZONING PROPERTY GENERALLY LOCATED BETWEEN GLADES CUT OFF ROAD & BANDY BOULEVARD APPROXIMATELY 1,100 FEET EAST OF SELVITZ ROAD FROM ST. LUCIE COUNTY IH, INDUSTRIAL HEAVY, TO CITY OF FORT PIERCE PD, PLANNED DEVELOPMENT; FURTHER APPROVING A DEVELOPMENT PLAN PURSUANT TO SECTION 22-40, PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Hudson opened the public hearing and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeny has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - yes.  
Commissioner Johnson - yes.  
Commissioner Perona – yes.  
Commissioner Sessions - yes.  
Mayor Hudson – yes.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation: Mr. Brandon Creagan, Planner, provided an overview of Ordinance 19-041 which is an application for a Zoning Atlas Map Amendment. Mr. Creagan provided maps and a site plan of the subject parcel describing location. The request is to rezone the property from Industrial Heavy (IH) (SLC) to Planned Development (FP) with an associated development plan. Notifications were sent to 52 property owners within 500 feet. Two were in favor and 17 were in opposition (32.6%). An approval by the City Commission will require a concurring 4/5 vote because more than 20% were opposed. Staff recommends approval with 11 conditions:

- 1) The height of staked materials shall not exceed 25 feet;
- 2) At time of Building Permit submittal, a copy of the FDEP Air General Permit shall be forwarded to the City's Engineering Department;
- 3) Phase 2 parking lot shall include appropriate curbing and landscaped islands as per the requirements listed in Section 22-187(12)(d);
- 4) Before a Certificate of Occupancy is issued, a landscape bond shall be submitted for all proposed landscaping pursuant to City Code 22-180, except for such bond being for a period of 60 months;
- 5) No melting or burning of any materials shall take place on site;
- 6) Operations shall adhere to the submitted and approved truck route to and from the site. Any deviation from this approved truck route shall be subject to review and approval by the Planning Department;
- 7) The operation shall adhere to the noise ordinance as outlined in Sections 11-52 through 11-52.22;
- 8) The eastern limit of the aggregate recycling facility shall now become the quarter section line;
- 9) The operator shall adhere to the D. S. Eakins Construction Corporation Dust Mitigation Plan for the Fort Pierce Industrial Aggregate Recycling Facility, provided with the application submittal May 31, 2019. The operator shall maintain records of the actions taken to control dust in the plan. The records shall be available to the City of Fort Pierce and the School Board of St. Lucie County;
- 10) Landscape on the East/Northeast buffers shall be properly maintained. Any dead or nonproductive plant material shall be replaced. It shall be provided with a permanent irrigation system. The landscaping shall be comprised of a berm of at least 15 feet in height with opaque fencing that shall be at minimum, eight feet in height erected on top of the berm.
- 11) The work hours shall be 7:00 am until 7:00 pm, Monday through Saturday.

Commission Questions: The Commission clarified that it is in fact eleven conditions and not seven. The Commission asked for the approved truck route to which Mr. Creagan indicated that the truck route is in the Applicant's traffic plan. He further explained that it would be from Interstate 95 to Midway to Selvitz, or Interstate 95 to Okeechobee to Jenkins to Edwards to Selvitz. The Commission inquired whether the processing will be inside a structure and if the material will be stored inside a structure, and Mr. Creagan confirmed the material will be stored outside and processed on a conveyor belt type machine outside. The Commission inquired as to the significance of condition #8. Mr. Creagan said the quarter section line denotes the line where the aggregate material shall not extend eastward past this line. Mr. Creagan confirmed that adjustments have been made in response to resident concerns. The Commission inquired about the landscape buffer which would be part of the approval of the landscape design. Mr. Creagan confirmed for the Commission that the Applicant also has a

similar operation in West Palm Beach and two other cities. City Staff visited the West Palm Beach location. Rebecca Guerra, Senior Planner stated that the plant in West Palm Beach is well maintained; the material was watered down to reduce dust; the trucks coming in were processed quickly with material being unloaded. During their visit, the plant seemed to function well and there was no debris flying around. As to sound, Ms. Guerra explained that the machine crushing concrete was very loud when standing next to the machine. Employees working near the machinery were wearing protective ear gear.

Applicant Questions for Staff: none.

Applicant's Presentation: Ms. Emily O'Mahoney, sworn, of 2GHO representing the Applicant DSE Holdings, provided an overview of the application for an Aggregate Recycling Facility and explained that the aggregate material is primarily used for building roadways. The location was approved for heavy industrial use and is surrounded by other industrial properties as depicted on the photos of the initial application site plan. The Applicant changed the site plan in response to the neighbors attending a public workshop in January 2019, and provided an overview of the history of submittal leading up to the current proposal.

Applicant Representative indicated their concurrence with the Staff recommended conditions. The Applicant has created an enhanced buffer between the subject property and the high school property as shown on the visual slides depicting the enhanced landscape plan. The Applicant Representative stated that the public benefit to this plan includes recycling to meet the County's state targeted percentages per DEP Website, and the material being processed is not considered waste. The FDEP targeted recycling is 75% by 2020, with a current shortfall at 22%. The projected volume at this site will exceed the target volume. The dust will be monitored through DEP Air Permit. Material being recycled is concrete (a product that carries potable water). There is little to no noise from the processing other than the trucks backing up from a distance of 40 feet. The stacked material serves as an additional buffer to noise.

Commission Questions: The Commission inquired about the transfer equipment which moves the material from the drop off location to the processing area. Applicant Representative replied that front-end loaders are used to move the material. The Commission inquired about trucks being sprayed down with water prior to dumping material. Mr. Steven Eakins, sworn, Applicant, stated that the trucks are not sprayed coming into the property. Per DOT, they are required to be covered with tarps and the trucks are inspected to ensure there is no trash and no contaminated material. Water trucks are on site to spray down the unpaved roads within the property and during the crushing process. The Commission inquired as to the length of time material remains on site; Mr. Eakins explained that there is no definitive timeline, that when the material is sold, it is removed from site and there is no odor and no expiration to the material. Concrete and dirt will be accepted from anyone free of charge. The crushing operation will not be the full 7:00 am to 7:00 pm. On a normal business day, crushing is done between 7:30 am and approximately 4:30 pm. The remainder of the time is reserved for greasing the equipment, repairs and maintenance. The gates are closed at 5:00 pm. Saturdays are reserved as a make-up day in the event of inclement weather during the business week. The Commission inquired about the stormwater design for water exiting the property and the Applicant responded that the lake will have baffles and the water will be re-cycled for use on site. Mr. Jonathan Ricketts, sworn, Applicant's Engineer, responded that the site has two mechanisms for treatment as all sites in the State of Florida are required to have 1/2" of pre-treatment which will occur in the swales. In addition, they have added an additional 50%. The water is also treated in the wet detention with an additional 50%. Most of the dust and small particles will be captured in the dry swales which is then transferred to processing.

Staff had no questions for the Applicant or Applicant Representatives.

Public Comment:

Harold Melville, sworn – representing River Oaks – Opposed.  
Michelle DeP Potter, sworn – CEO of AGC, Florida East Coast Chapter – Supports Application.  
John Cherveney, sworn – President River Oaks HOA – Opposed.  
Dave Aiken, sworn – CEMEX – Supports Application.  
Robert Gehrig, sworn – Opposed.  
Helen Eaton, sworn – Opposed.  
Marty Sanders, sworn – Neutral.

Applicant's Closing Statements: Applicant's Representative clarified comments on the buffer to processing and sound.

Staff has no further comments.

Mayor Hudson announced that public participation is closed and now is the time for the Commission deliberation.

The Commission deliberated on the presentations. The Commission inquired as to what the school board's position is on this application and if all eleven conditions address the concerns of the school board. Ms. Guerra indicated that the conditions of approval were vetted and include suggestions from the school board which were integrated in the final conditions. The Commission inquired about the quarter-mark line. Ms. Guerra explained the separation of land use for that line. Commission inquired about the buffers to which Mr. Creagan stated that if the Applicant does not comply, the City will not sign off on the bond nor will permits be issued. The site plan must be adhered to or they will not get a final Certificate of Occupancy. The Commission requested review of the cross section on the berm. The concern is with the screening on the fence on the berm during significant storms. Back-up alarms on trucks were also discussed. The hours of operation were discussed with regard to noise and disruption to the neighbors. The Commission remains concerned with the onsite treatment of the stormwater runoff. The Commission recognizes the contributions made to the application conditions by the school board. No evidence has been presented that would preclude this business from its performance as allowed by law.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Rufus Alexander to approve item 12k., Ordinance 19-041, with eleven (11) Staff conditions, with an amendment to Condition 11: Hours of operation, Monday through Friday from 7:30 am – 5:30 pm for processing and equipment operation and no hours of operation on Saturday.

- 1) The height of staked materials shall not exceed 25 feet;
- 2) At time of Building Permit submittal, a copy of the FDEP Air General Permit shall be forwarded to the City's Engineering Department;
- 3) Phase 2 parking lot shall include appropriate curbing and landscaped islands as per the requirements listed in Section 22-187(12)(d);
- 4) Before a Certificate of Occupancy is issued, a landscape bond shall be submitted for all proposed landscaping pursuant to City Code 22-180, except for such bond being for a period of 60 months;
- 5) No melting or burning of any materials shall take place on site;
- 6) Operations shall adhere to the submitted and approved truck route to and from the site. Any deviation from this approved truck route shall be subject to review and approval by the Planning Department;
- 7) The operation shall adhere to the noise ordinance as outlined in Sections 11-52 through 11-52.22;
- 8) The eastern limit of the aggregate recycling facility shall now become the quarter section line;
- 9) The operator shall adhere to the D. S. Eakins Construction Corporation Dust Mitigation Plan for the Fort Pierce Industrial Aggregate Recycling Facility, provided with the application submittal May 31, 2019. The operator shall maintain records of the actions taken to control dust in the plan. The records shall be available to the City of Fort Pierce and the School Board of St. Lucie County;
- 10) Landscape on the East/Northeast buffers shall be properly maintained. Any dead or nonproductive plant material shall be replaced. It shall be provided with a permanent irrigation system. The landscaping shall be comprised of a berm of at least 15 feet in height with opaque fencing that shall be at minimum, eight feet in height erected on top of the berm.
- 11) The work hours shall Monday through Friday from 7:30 am – 5:30 pm for processing and equipment operation and no hours of operation on Saturday as amended.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

- I. Quasi-Judicial Hearing - Review and approval of an Application for Subdivision (Final Plat), submitted by property owner, D.S.E. Holdings, Inc, & applicant/representative Emily O'Mahoney of 2GHO, Inc to subdivide 52.00 acres of land between Glades Cut Off Road & Bandy Boulevard approximately 1,100 feet east of Selvitz Road in Fort Pierce, FL. The property is zoned St. Lucie County IH, Industrial Heavy. Parcel ID: 2432-123-0001-000-8.

City Clerk Linda Cox introduced the Application for Subdivision (Final Plat), into the record.

Mayor Hudson opened the public hearing and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeny has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - yes.  
Commissioner Johnson - no.  
Commissioner Perona – no.  
Commissioner Sessions – no.  
Mayor Hudson – yes.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation: In conjunction with the prior hearing, the application for subdivision (Final Plat) is to subdivide 52 acres of land between Glades Cut Off Road and Bandy Boulevard. The Final Plat meets the criteria as specified in Chapter 18 of the Code of Ordinances. The application is consistent with Land Development Code and the City's Comprehensive Plan. Staff recommends approval of the Final Plat subject to one condition: The applicant shall supply two (2) mylars before the City Commission meeting for appropriate signatures and then the Plat is recorded with St. Lucie County Clerk of Courts in accordance with Florida State Statute 177.111. Staff is currently in receipt of the two mylars as requested. Commission had no questions for Staff.

Applicant's Presentation: Applicant Representative Emily O'Mahoney, sworn has no questions for Staff and no presentation.

Commission had no questions for Applicant.  
Staff had no questions for Applicant.

Public Comment: none.

Seeing no one, Mayor Hudson announced that public participation is closed and now is the time for the Commission deliberation.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Rufus Alexander to approve Item 12l., Application for Subdivision (Final Plat), with one (1) Staff condition: The applicant shall supply two (2) mylars before the City Commission meeting for appropriate signatures and then the Plat is recorded with St. Lucie County Clerk of Courts in accordance with Florida State Statute 177.111.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions  
Passed

### **13. CITY COMMISSION**

- a. Submittal of applications to serve on the Fort Pierce Utilities Authority.

Submittal of applications to serve on the Fort Pierce Utilities Authority for District 2. This item will come back to the Commission for a vote at the next regular meeting in the form of a Resolution.

- b. Submittal of applications to serve on the Parks Advisory Committee

Submittal of applications to serve on the Parks Advisory Committee. This item will come back to the Commission for a vote at the next regular meeting in the form of a Resolution.

### **14. COMMENTS FROM THE PUBLIC**

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

Robert Gehrig  
John Cherveney

**15. COMMENTS FROM THE CITY MANAGER**

No comments at this time.

City Attorney - no comments at this time.

**16. COMMENTS FROM THE COMMISSION**

Commissioner Alexander:

We do not allow businesses to come into our City and ignore regulations. Commissioner Alexander would like to know if there is a dust problem caused by the existing Pre-Cast Specialties, LLC

Commissioner Perona:

With regard to comments this evening about errors made during annexation with zoning, Commissioner Perona would like to hear from Staff at a later date explaining what happened, what the situation was to cause confusion and is it something that can be fixed. Mayor Hudson agreed. Regarding Pre-Cast being a bad neighbor, it is important for the Commission to understand what is happening on that property. Commissioner Perona expressed his concern regarding the Quasi-Judicial procedures and the requirement for substantial evidence and the four-fifth's requirement on return of notices. City Attorney Peter Sweeney stated that the procedures for the notice returns are outlined by Ordinance and if it is the will of the Commission to make changes, it would need to be done by an Ordinance revision. Mayor Hudson would like to see staff tasked with evaluating the Ordinance. Mr. Mimms stated that based upon concerns brought up, an inspection of Pre-Cast will be done of the facility and landscape results will be compared to requirements. Complaints are forwarded to the police department.

Commissioner Sessions:

Agrees with Pre-Cast concerns. Commissioner Sessions expressed that Pre-Cast stated they would be hiring local residents. He has been informed that they are bringing in employees from Broward from their other location. Their credibility is in question. Commissioner Session concurs with the investigation into complaints regarding Pre-Cast. Commissioner Sessions reminded the Commission and the community about the upcoming Job Fair at the Percy Peek & IRSC Blackburn Center on September 20, 2019. Several employers will be present for the workshop.

Commissioner Johnson: October 30-31, 2019 there will be a conference for adaptive planning for coastal communities hosted by NOAA and Martin County. Commissioner Johnson brought up our scooter share program. Many people are enjoying the use of the scooters. Commissioner Johnson is aware there are some citizens concerned with the program. Commissioner Sessions hopes that the actions of a few don't spoil the program for many.

Mayor Hudson:

Coffee with the Mayor starts up again beginning on Friday, September 20, 2019 at 8:00 am at Fort Pierce Yacht Club.

**17. ADJOURNMENT**

Being nothing further, Mayor Hudson adjourned the meeting at 10:25 PM.

ATTEST:

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CITY CLERK

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MAYOR COMMISSIONER