

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, **JANUARY 06, 2020.**

1. CALL TO ORDER

Mayor Hudson called the January 06, 2020 Regular Meeting of the City Commission to order at 6:30 PM.

2. OPENING PRAYER - Apostle Vonnie Austin-James, Family Faith Worship Center

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 Minutes from December 16, 2019 Regular Meeting

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve the minutes from the December 16, 2019 regular meeting.

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

6. PROCLAMATIONS

7. LETTERS TO COMMISSION

a. Email from Walt and Janet Buda thanking Joe Sweat, Marketing Specialist and Shyanne Helms, Communications + Economic Development with their contribution to the immense enjoyment of the Holiday Lights Trolley Tour.

b. Email from Michael Broderick, Director of Property Management, Trident Properties Management thanking Mike Reals, Public Works Director and his team for their prompt repair of a streetlight adjacent to Anytime Fitness on 7th Street.

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.

Rick Reed - Items 11b. and 11c.

9. ADDITIONS OR DELETIONS TO AGENDA AND APPROVAL OF AGENDA

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve 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 travel in the total amount of \$1,070.15 for Mayor Hudson to attend the 2020 Florida League of Cities Legislative Action Days, February 10-12, 2020 in Tallahassee, Florida.
- b. Approval of amended Employment Agreement for City Clerk to clarify leave allocation and recognition of organizational structure for Charter Officers and their offices as directed at the December 9 Conference Agenda.
- c. Approval of amended Employment Agreement for City Attorney to clarify leave allocation and recognition of organizational structure for Charter Officers and their offices as directed at the December 9 Conference Agenda.

Commissioner Alexander pulled Items 11b. and 11c. for discussion.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Rufus Alexander to approve Item 11a.

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

At the request of Commissioner Alexander, items 11b and 11c were pulled for discussion. The City Commission discussed the identical two changes to be made to the respective contracts: leave allocation and clarification of the organizational structure for Charter Officers consistent with the City of Fort Pierce Charter. No other changes have been proposed including compensation, except to correct clerical spelling and punctuation errors. Because the contracts will have a new effective date, the terms are extended accordingly. The contracts as presented before the City Commission tonight are reflective of the discussions and direction as given to staff by the City Commission at the Conference Agenda on December 09, 2019.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve item 11b.

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

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve Item 11c.

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

12. PUBLIC HEARINGS

- a. Quasi-Judicial Hearing - Review and approval of an application for Conditional Use with new construction submitted by property owners, Stonebridge Senior Living LLC and Applicants Mark Nicholas and Tiffany Rink, to establish an Assisted Living Facility with 42 living units at 4201 S. 25th Street, Fort Pierce, FL. The property is zoned Office Commercial (C-1), Parcel ID: 2432-411-0001-000-2.

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.

Mr. Vennis Gilmore, Planning Analyst provided an overview of the application for Conditional Use with New Construction as submitted by property owners, Stonebridge Senior Living LLC, applicant Mark Nicholas, and applicant Tiffany Rink to establish an assisted living facility with 42 living units at 4201 S. 25th Street, Fort Pierce, Florida. Mr. Gilmore provided a map indicating the current future land use is currently low-density residential and the current zoning is C-1, office-commercial. Mr. Gilmore also provided a proposed site plan showing the construction in two phases. The owner and applicants were previously approved by the City Commission to construct a 32-living unit facility at the same site on November 19, 2018. The subject Conditional Use Application is for an additional ten units with a small decrease in square footage; and, no changes to the site plan. Mr. Gilmore also provided a Design Review and Landscape Review. Staff recommends approval.

Commission questions for Staff: The City Commission confirmed that the applicant is aware that the proposed location is in the vicinity of an industrial area.

Applicant presentation: Mr. Richard Ladyko, sworn, of Ladyko Design Group was present on behalf of the applicants. Mr. Ladyko had no questions for staff. Mr. Ladyko was present to answer any questions with regard to the application.

The Commission had no questions for the Applicant-representative.

Public comment:

Robert Humphrey, sworn – Parking, lighting, fence, location of generator, and air-conditioning are among concerns of the neighbors.

Applicant-representative, Richard Ladyko indicated the applicant is required by code to have a six-foot opaque fence around it's westerly and southerly boundaries. Regarding parking, the additional ten units did not generate the need for additional parking. The majority of the parking lot spaces will be for staff. Most occupants of the facility do not drive. The number of available parking spaces meets current code requirements. Mr. Ladyko believes the generator will be located on the northerly side of the building. Mr. Ladyko stated that a lighting plan was submitted and subsequently approved by Staff.

With no further comments or discussion, Mayor Hudson closed the public hearing.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Rufus Alexander to approve Item 12a.

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

Passed

- b. Legislative Hearing - Ordinance 19-037 An Ordinance by the City Commission of the City Of Fort Pierce, Florida; modifying the Harbour Isle Planned Development to revise the previously approved Site Plan for a convenience store with fuel sales on property generally located at 835 Seaway Drive; providing for a severability clause; repealing all Ordinances or parts thereof in conflict herewith; and providing for an effective date. SECOND READING

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

ORDINANCE NO. 19-037

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; MODIFYING THE HARBOUR ISLE PLANNED DEVELOPMENT TO REVISE THE PREVIOUSLY APPROVED SITE PLAN FOR A CONVENIENCE STORE WITH FUEL SALES ON PROPERTY GENERALLY LOCATED AT 835 SEAWAY DRIVE; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE. SECOND READING

Mr. Mimms, City Manager introduced Consulting Engineer, Mr. Brian Good, Engineer with Kimley-Horn and Associates, Inc., who provided an informational presentation regarding investigative analysis and recommendations for the traffic configuration and flow for the general area in response to the questions raised by this application. Mr. Jack Andrews, City Engineer was also present and available to answer questions.

Mr. Good provided a background of the proposed development site plan which included a detailed presentation on the traffic study which was done along with trip generation calculations which were adjusted to compensate for mathematical errors. This presentation provided for a total of 301 peak hour trips versus the previously estimated 277 peak hour trips. Mr. Good expressed concern with how the convenience store and gas pumps are categorized with respect to land use. The applicant used ITE codes that provide traffic characteristics for everything except the convenience store and gas pumps. The Department of Transportation had done an independent study in 2014 for the subject property's land use. Mr. Good went into great detail about projected vehicle movements, projected driveway turning movements, Seaway Drive capacity evaluation, and left-turn lane warrant evaluation. Based upon statistical data, Seaway Drive is currently operating between eight and forty-two percent over its rated capacity putting it at a Level of Service-F. Mr. Good discussed ways to mitigate the overcapacity or minimize the impact. He recommended that the City of Fort Pierce consider auxiliary turning lanes at principal turning points or a left-turn auxiliary lane to service the subject parcel. Another possible solution would be to reinstate the entrance into the site for Harbour Isle residents use to access the retail shops which would alleviate traffic entering Seaway Drive. The bulk of the traffic use for this site will come from drive-by traffic meaning vehicles already in the area for other purposes versus destination traffic which is traffic whose only purpose is to visit the site.

Applicant-representative, Zach Middlebrook, the developer for Cumberland Farms was present. Mr. Middlebrook would like to clarify that since the existing Cumberland Farms is closing it should not have been included in the traffic study. If the current Cumberland Farms location was included, that would reduce the numbers significantly. Regarding the traffic study as presented, Mr. Middlebrook is familiar with the work of Kimley-Horn and does not disagree with their presentation. Cumberland Farms has complied with all conditions given by Staff. The auxiliary left-turn lane addresses all the issues with traffic that have been raised. Cumberland Farms is willing to comply with this condition if imposed.

Mayor Hudson opened the Public Hearing.

Serge Tarasenko – opposed.
Steve Resta – opposed.
Ralf Brooks – opposed.
Jules Steiner – opposed.
Tom Cairnes – opposed.
Annette Rudd – opposed.
Dennis DeVivo – opposed.
Anne Marie Bode – opposed.
Keith Madsen – opposed.
Steven Jaroski – opposed.
Diane Barlbret – opposed.
Paul Grover – opposed.
Tracy Newman – opposed.
Rod Robertson – opposed.
Craig Barlbret – opposed.

Jacob Ensor – opposed.
David Greenacre – opposed.
Judy Deichler – opposed.
Craig Mason – In support.

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

City Attorney Peter Sweeney reminded the Commission that a super-majority vote is in effect requiring four out of five votes to approve. Being the second reading of a legislative hearing, the possible outcomes are to: approve with conditions outlined in the first reading requiring a four-fifths vote; change the current conditions which would be a substantial change and require another hearing; or, disapprove requiring a three-fifths vote. A vote of disapproval would have to be upheld by competent substantial evidence from both the first and second readings and would end the major amendment to the planned development. The applicant would be required to start the process over. The vote would have to be regarding Cumberland Farms only and not the Harbour Cay Shops.

The City Commission discussion continued. Commissioner Perona stressed that this is the second reading of a legislative hearing. Competent substantial evidence showing why this should be disapproved must be provided. Commissioner Johnson reviewed section three of Ordinance 19-037 which outlines the conditions imposed on the development application during the first reading. Jennifer Hofmeister, Planning Director, would like the City Commission to take into consideration that through this traffic study, we have learned that Seaway Drive is failing. The level of service for this roadway needs to be addressed because the City of Fort Pierce is not in compliance with the Comprehensive Plan which states it must maintain a Level of Service–D. Discussion continued on whether to take a vote based upon the first reading; or, to disapprove the proposed ordinance and begin the quasi-judicial proceeding again in light of the new information received from the traffic study which was completed. The City Commission agreed that there have been too many conflicting issues with the site plan proposal.

The Commission inquired if the suggestions by the consultant would be considered a substantial change. Mr. Mimms stated that it would be a substantial change, but the developer has agreed to comply with the condition if required at their own cost and no cost to the taxpayers.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to disapprove Ordinance 19-037.

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

Passed

City Attorney Peter Sweeny would like to clarify that based upon the vote to disapprove Ordinance 19-037, The City Commission has collectively indicated that the following piece(s) of competent substantial evidence form the basis for denial of the Major Amendment to the Planned Development for Harbour Isles, 835 Seaway Drive. This includes concern with traffic ramifications particularly with ingress and egress; and, the overburdening of an already failing level of service road which jeopardizes the health, safety, and welfare of the City of Fort Pierce and its citizens. City Attorney Peter Sweeney asked if he is incorrect with the competent substantial evidence which formed the basis for the Commission's denial to please speak now. Commissioner Johnson added that the conditions set forth in the August 19, 2019 hearing were not met and lack competent substantial evidence of compliance.

13. CITY COMMISSION

- a. Selection of Mayor Pro Tem pursuant to Section 23 of the City Charter which requires the City Commissioners to select one (1) of their number as Mayor Pro Tem at the first regular meeting following January 1.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Reginald Sessions to appoint Commissioner Perona as Mayor Pro Tem pursuant to Section 23 of the Charter.

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

Passed

- b. Resolution No. 20-R01 Reappointing JoAnn Parrish to the Fort Pierce Housing Authority Board.

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

RESOLUTION NO. 20-R01

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE MAYOR'S REAPPOINTMENT OF JOANN PARRISH AS A COMMISSIONER OF THE HOUSING AUTHORITY OF THE CITY OF FORT PIERCE; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve Resolution 20-R01.

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

Passed

- c. Resolution No. 20-R02 determining that the structure located at 913 Avenue B is unsafe and should be condemned and demolished and setting a hearing to determine this matter before the City Commission on February 3, 2020.

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

RESOLUTION NO. 20-R02

A RESOLUTION DETERMINING THAT A CERTAIN BUILDING OR STRUCTURE LOCATED AT 913 AVENUE B IN FORT PIERCE, FLORIDA, 34950 IS UNSAFE AND A NUISANCE THAT CONSTITUTES A MENACE TO THE BUSINESS, HEALTH AND SAFETY OF THE COMMUNITY; AND THAT ALL PARTIES OF INTEREST MUST SHOW CAUSE WHY THE STRUCTURE SHOULD NOT BE CONDEMNED AND DEMOLISHED IN ACCORDANCE WITH THE CHARTER OF THE CITY OF FORT PIERCE; AND NOTIFYING ALL PARTIES OF POTENTIAL ACTION BY THE CITY OF FORT PIERCE FOR FAILURE TO ACT; AND THAT A PUBLIC HEARING BE HELD AT THE REGULARLY SCHEDULED CITY COMMISSION MEETING ON FEBRUARY 3, 2020 AT 6:30 PM, IN THE CITY COMMISSION CHAMBERS LOCATED AT 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA; AND PROVIDING FOR NOTICE TO ALL PARTIES.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve Resolution 20-R02.

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

Passed

- d. Resolution No. 20-R03 appointing members to the Parking Committee.

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

RESOLUTION NO. 20-R03

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE APPOINTMENT OF MEMBERS TO THE PARKING COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE.

The following members will be appointed to the Parking Committee:

Anton Kreisl – Appointed by Commissioner Johnson
Dan Cushman – Appointed by Mayor Hudson
Doris Tillman – Appointed by Commissioner Perona
Ruby Smith – Appointed by Commissioner Alexander
David Bushea – Appointed by Commissioner Sessions
Michael Broderick – Appointment at large
Gus Gutierrez – Appointment at large

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Reginald Sessions to approve Resolution 20-R03.

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

Passed

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.

Diana Voss
Carol Mills

15. COMMENTS FROM THE CITY MANAGER

City Manager Nick Mimms would like to acknowledge the holiday traditions presented in the City of Fort Pierce: Marina Square Holiday Light Spectacular, City Lights Contest, Holiday Lights Trolley Tours, Movies in the Fort Presentation, Shop with a Cop, Christmas at First Step Park, Santa-Cop, City of Fort Pierce and Sunrise Theatre's presentation of Sounds of the Season.

Mr. Mimms reiterated a Memorandum sent on December 31, 2019 regarding the appeal of the denial notification from FEMA regarding the request for funds to repair and restore the Melody Lane Seawall. The Florida Division of Emergency Management has recommended that FEMA grant the City's appeal.

Mr. Mimms reminded the City Commission that on January 13, 2020, each Commissioner will participate in a telephone conference with Mr. Lyle Sumeck, who is the facilitator for Strategic Planning.

City Attorney Peter Sweeney has no report at this time.

a. Reports

16. COMMENTS FROM THE COMMISSION

Commissioner Alexander – Would like to wish all a Happy New Year.

Commissioner Perona – Would like to thank Staff and Public Works for all the efforts during the holiday season. All the events held by the City of Fort Pierce were a wonderful representation of our City.

Commissioner Sessions – Would like to wish all a Happy New Year. Fort Pierce was the place to be with all the lights and festivities that were offered. Commissioner Sessions would like the No-Wake Ordinance to be re-considered by City Commission and added to a future Agenda.

Commissioner Johnson – Would like to reiterate the thanks to Staff especially during the holiday time period. Commissioner Johnson also commented on the Memorandum regarding Arc's request for a waiver of fees. Mr. Mimms stated that the request was denied; however, they were offered a mechanism to assist with the costs. Mr. Mimms has not heard back from them. Commissioner Johnson inquired about the parking garage project. Mr. Mimms stated that construction should begin on the third floor sometime in February.

Mayor Hudson – Would like an update on the ramp at Museum Pointe Park. Mr. Mimms stated it is not in operation at this time; but, he will get an update and provide it to the Commission. Mayor Hudson would like to remind everyone that Saturday, January 11, 2020, is the History Festival in Downtown Fort Pierce.

17. ADJOURNMENT

Immediately following adjournment, please move toward the doors and exit the chambers. This allows for the safe and courteous exit of all persons, and those on the dais. Conversations after the meeting should be held outside of chambers, in the foyer or elsewhere, but not in the commission chambers where lights will be out as soon as the chambers are empty.

Mayor Linda Hudson adjourned the meeting at 10:13 PM.

ATTEST:

CITY CLERK

MAYOR COMMISSIONER