

# DRAFT



CITY OF FORT PIERCE  
**HISTORIC PRESERVATION  
BOARD**

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## Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE HISTORIC PRESERVATION BOARD HELD ON MONDAY, FEBRUARY 26, 2024, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

Present: Betty Jo Starke; Minnie Spivey; Holly Theuns; Anthony Westbury; KeAndrea Davis; Charlie Hayek, Chairman

Absent: Andrea Anicito

Staff Present: Sara Hedges, City Attorney  
Kev Freeman, Planning Director  
Andrea Duenas, Assistant City Attorney  
Maria Lewicka, Historic Preservation Planner  
Alicia Rosenthal, Planning and Development Organizer

**4. APPROVAL OF MINUTES**

- a. Minutes from the January 22, 2024 meeting

Motion was made by Betty Jo Starke, and seconded by Anthony Westbury to approve the minutes from the January 22, 2024, meeting.

AYE: Minnie Spivey, Holly Theuns, Anthony Westbury, KeAndrea Davis, Betty Jo Starke, Chairman Charlie Hayek

Passed

## 5. PUBLIC HEARINGS

### a. Certificate of Appropriateness #24-06 - Demolition - 738 B Delaware Avenue

The clerk introduced Certificate of Appropriateness 24-06 for demolition at 738 B Delaware Avenue.

The City Attorney explained the Quasi-Judicial Hearing procedures.

When acting as a quasi-judicial body, the Board is held to certain procedural requirements.

Quasi-judicial proceedings are less formal than proceedings before a circuit court, but are more formal than the other aspects of today's meeting. Quasi-judicial proceedings must follow basic standards of notice and due process, and decisions must be made based on competent substantial evidence. Therefore, board members have a duty to conduct quasi-judicial proceedings more like judges than legislators. This afternoon, the Board will follow the same uniform procedure in all quasi-judicial hearings.

Chairman Hayek called the proceeding to order.

The clerk confirmed the City complied with the advertisement requirements.

Chairman Hayek inquired with the Board regarding ex-parte communications and asked the Clerk to call the roll:

Ms. Theuns - no

Mr. Westbury - no

Ms. Davis - no

Ms. Starke - no

Ms. Spivey - no

Chairman Hayek - no

Chairman Hayek opened the public hearing.

The clerk was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on the 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.

Staff Presentation:

Maria Lewicka, Historic Preservation Planner, stated there are three (3) buildings on the lot and the middle building is the subject structure for demolition. Ms. Lewicka said the structure is a 1936 two-story wood frame building with a gable roof. The applicant is requesting approval for demolition of the fire-damaged, deteriorated structure and after the demolition the owner will plant a garden in the footprint of the house. Ms. Lewicka showed pictures from the applicant and the building inspector of the interior and exterior damage to the structure. Ms. Lewicka stated the applicant met most of the criteria for demolition. She said the building proposed for demolition is in very poor condition, and it was heavily damaged by fire and left to deteriorate for an extended period of time. Ms. Lewicka noted the Property Maintenance Inspection report finds the building to be unsafe. Ms. Lewicka concluded that while rehab of the structure is permitted and possible, it would be at considerable expense. Given the application meets the A, B, C, D, and E criteria for demolition of a structure within a designated historic district, staff recommends the Historic Preservation Board approve the demolition.

Board questions for staff: Chairman Hayek asked if there are any restrictions on building a house in the future and if the city sends out a notification of the demolition. Ms. Lewicka said

the lot is not big enough for three (3) residential structures, and she was not aware of a demolition notification being sent out to the neighbors.

Applicant Presentation: Jean Van Winkle, Owner, sworn, stated the structure is full of rats, mice, stray cats, squirrels and fleas. She said the deterioration looks bad, and the varmints are coming over to her house.

Board questions for Applicant: none

Public comment: none

Staff final comments: none

Chairman Hayek, seeing no one else, closed the public hearing.

Comments by the Board: Board discussion ensued on whether the neighbors should be notified by the city of the demolition due to the varmints moving to the neighbor's property.

Motion was made by KeAndrea Davis, and seconded by Minnie Spivey to approve Certificate of Appropriateness 24-06 for the demolition of the structure located at 738 B Delaware Avenue.

AYE: Holly Theuns, Anthony Westbury, KeAndrea Davis, Betty Jo Starke, Minnie Spivey,  
Chairman Charlie Hayek

Passed

b. **Conditional Use Application - Expansion of the Existing Outdoor Entertainment Area - 411 N. 2nd Street**

Mr. Hayek recused himself. Ms. Hedges stated the code sections for the potential voting conflicts of interest. Ms. Hedges explained a decision has to be made within 60 days of receiving the application. Staff confirmed the application was received on February 5, 2024. Ms. Hedges said a continuance to the March 25, 2024, Historic Preservation Board meeting would be within 60 days. The applicant, Jon Nolli, objected to continuing the hearing. Ms. Hedges said the Board could vote to continue the hearing.

Ms. Theuns recused herself.

Ms. Hedges explained the rules of the Board require a majority of the Board to approve the application. With the recusals, there are four (4) voting members, so a unanimous vote is required. Mr. Nolli stated he wanted to move forward.

Mr. Westbury made a motion to continue the hearing to the March 25, 2024, Historic Preservation Board meeting. Ms. Starke seconded the motion. Ms. Starke withdrew her motion. The motion died.

Ms. Theuns stated she recused herself because of the complaint she made to Code Enforcement regarding excessive use of the property in February 2023. Ms. Theuns said she was not aware the complaint was a conflict until right before the Historic Preservation Board meeting started. Ms. Theuns said she wanted to continue the meeting, so she could discuss the matter with a legal representative. Ms. Theuns said she is going to recuse herself because she does not want to jeopardize the outcome of the hearing.

The chairman introduced the Conditional Use Application for expansion of the existing outdoor

entertainment area located at 411 N. 2nd Street, Pierced Ciderworks.

Chairman Hayek called the proceeding to order.

The clerk confirmed the City complied with the advertisement requirements.

Chairman Hayek inquired with the Board regarding ex-parte communications and asked the Clerk to call the roll:

Ms. Theuns - yes

Mr. Westbury - no

Ms. Davis - no

Ms. Starke - no

Ms. Spivey - no

Chairman Hayek - yes

Chairman Hayek opened the public hearing.

The clerk was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on the 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.

#### Staff Presentation:

Maria Lewicka, Historic Preservation Planner, stated the applicant is requesting approval of a Conditional Use to expand the existing outdoor entertainment area on a designated historic site within the Edgartown Settlement Zoning District. The proposed expansion requires a conditional use approval to deviate from City Code Section 125-197(j), which allows for a maximum of 800 square feet of exterior space, whereas the proposed outdoor area will be approximately 5,000 square feet. Ms. Lewicka provided background on the location. She noted that on September 28, 2021, the Historic Preservation Board approved a Certificate of Appropriateness for the performance stage that has been installed in the rear of the property. The stage is an accessory structure and is used for music concerts and special events. Ms. Lewicka stated on May 23, 2023, Code Enforcement initiated a case against the property where Sec. 125-197 – Edgartown Settlement (ES) Zoning District was violated. On November 15, 2023, the Special Magistrate decided the business was in violation. She said the business was to reduce the area utilized for exterior restaurant/ pub use to 800 square feet or obtain a Conditional Use permit through Planning and Zoning to extend the area allowed to be utilized for exterior restaurant/pub use. Ms. Lewicka showed an aerial view of the location of the expanded entertainment area. Ms. Lewicka said the Board will act as the decision-making body for this conditional use based on the architectural and historic character, comprehensive plan, concurrency, compatability and impact. Ms. Lewicka stated it is up to the Historic Preservation Board to decide if the Conditional Use is granted to the applicant/owner, or to the location/parcel. If granted to the applicant/owner, it would expire with the property's sale. If granted to the location/parcel, the Conditional Use could be transferred to the subsequent property owner(s).

Ms. Lewicka stated the first paragraph in the staff recommendation on the staff report was not valid and has been updated in the presentation.

Board questions for staff: Ms. Davis asked for clarification on the entertainment expansion area. Ms. Lewicka explained in the ordinance that the applicant can only use 800 feet of the outside space for entertainment. The space currently being used is approximately 5,000 square feet. Ms. Lewicka said it is hard to precisely say how many square feet are being used because people are always moving around. Ms. Starke asked who had financial interest in the property. Mr. Hayek asked for the square footage of the parcel itself. Ms. Theuns confirmed

with Ms. Lewicka the comprehensive changes made to the Edgartown Settlement District in April 2023.

Applicant Presentation: Jon Nolli, owner of Pierced Ciderworks, sworn, stated six years ago he bought the property from Mr. Hayek, and he holds the note. He said Ms. Theuns is his direct neighbor and has a conflict with how they do business, and she was the person who made the complaint and brought this matter forward. Mr. Nolli said he does not understand what being able to use the outside area has to do with landscaping and volume. Landscaping will confine the area even more and the sound has to be adhered to. The cidery business is a destination and a family-friendly environment in a mixed-use area.

Board questions for Applicant: Ms. Theuns asked Mr. Nolli if he owns Typsy Tiki and Crocaddillo's, and if there is nightly entertainment at the Typsy Tiki. Ms. Davis asked what the additional space would be used for. Ms. Nolli said there is not a defined 800 foot area where they are supposed to corral their customers. They have picnic tables, ring toss, dog walkers and mango trees for picking fruit. He said there is no way to currently police the area where people congregate. Ms. Davis asked if the current rules allow him to make the best use of the property. Mr. Nolli said they do not. Ms. Theuns asked if he knew the rules of the property were known when the property was purchased. Mr. Nollis stated he was aware. Mr. Hayek asked if there had been any random checks with the city to see if he was in compliance with the new sound ordinance and if he had ever failed. Mr. Nolli said he has been told a couple of times to turn the music down, but it has not been an issue in many months.

Ms. Spivey stated she had to leave the meeting.

Ms. Hedges stated there are portions of the quasi -judicial hearing that have not been met, so a special hearing date will need to be set to continue the hearing.

The public hearing ended.

Motion was made by Minnie Spivey, and seconded by Betty Jo Starke to continue the hearing to the March 25, 2024, Historic Preservation Board meeting.

AYE: Anthony Westbury, KeAndrea Davis, Betty Jo Starke, Minnie Spivey

Other: Holly Theuns (ABSTAIN), Chairman Charlie Hayek (ABSTAIN)

Passed

## **6. NEW BUSINESS**

- a. Administratively Approved Certificates of Appropriateness - January 2024

## **7. COMMENTS FROM THE PUBLIC**

There were no comments from the public.

## **8. CONSIDERATION OF ABSENCES**

Ms. Davis and Ms. Spivey left the meeting prior to the vote.

Motion was made by Holly Theuns, and seconded by Anthony Westbury to excuse the absence of Ms. Anicito.

AYE: Anthony Westbury, Betty Jo Starke, Holly Theuns, Chairman Charlie Hayek  
Passed

**9. ADJOURNMENT**

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Thomas Holly</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Historic Preservation</i>
MAILING ADDRESS <i>414 N 2nd St</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY <i>Fort Pierce</i>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY <i>St Lucie</i>	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED <i>2/26/24</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Holly Thruy, hereby disclose that on 2/26, 2024:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

2/03/23 fee/click/fix was used to initiate complaint  
286,012 F.S.  
quasi judicial proceedings  
abstained to ensure fair proceeding free from potential bias or prejudice

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

2/26/24

Date Filed

Signature 

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME ADAMEK CHARLES CARL	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE HIST. PRESERVATION BOARD
MAILING ADDRESS 1111 FERNANDINO ST. ST. LUCIE	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY FORT PIERCE ST. LUCIE	NAME OF POLITICAL SUBDIVISION: FORT PIERCE
DATE ON WHICH VOTE OCCURRED 2-26-24	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

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**APPOINTED OFFICERS (continued)**

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IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

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- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, \_\_\_\_\_, hereby disclose that on \_\_\_\_\_, 20 \_\_\_\_ :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_ ;
- inured to the special gain or loss of my relative, \_\_\_\_\_ ;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

*OWN Mortgage on property*

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

2-26-24  
Date Filed

*[Signature]*  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.