



PLANNING AND ARCHITECTURAL REVIEW BOARD MEETING MINUTES

Tuesday, October 01, 2024 at 5:30 PM

City Commission Chambers – 105 S. 2ND Street, Flagler Beach, FL 32136

AMENDED AGENDA

ALL MEETING ITEMS WILL BE CONTINUED UNTIL MEETING IS COMPLETE.

1. Call the meeting to order

Chairman Joseph Pozzuoli called the meeting to order at 5:31pm.

2. Pledge of Allegiance

Lisa Smith led the Pledge of Allegiance.

3. Roll Call / Determination of Quorum

Present: Chairman Joseph Pozzuoli, Vice-Chairman Marshall Shupe, Lisa Smith, Joann Soman, Scott Chappuis

Absent: Paul Chestnut, Brenda Wotherspoon

Staff Present: City Attorney Drew Smith, City Clerk Penny Overstreet and Secretary Michele Ficocello

4. Approval of Meeting Minutes

a. September 3, 2024

Joann Soman motioned to approve minutes; Lisa Smith seconded. City Attorney read into the record as part of statutory process, the previous meeting's voting conflict on behalf of Board Member Brenda Wotherspoon as living within 200 feet of the business applying for an outdoor entertainment permit, application OE-24-09-01 (Form 8B attached to minutes). Motion passed unanimously.

5. Deletions and changes to the agenda

None

6. Old Business

a. Application OE-24-09-01 Request for Annual Outdoor Entertainment Permit - The Cajun Beach - 1112 S. Ocean Shore Boulevard - Applicant - Patrick McKinney.

The City Clerk Penny Overstreet presented the item. Staff report included fourteen criteria required, updated report on complaints received by Police Department, available parking and parking requirements. The Applicant, Patrick McKinney, was present and spoke. Mr. McKinney's comments included stating he has been in compliance with City Ordinances. Discussion with Board ensued. Discussion included; length of time in business, amount of complaints received, decibel meter

readings, history of business and change of ownership, seating and occupancy, parking pool which the business does not qualify for and state law for parking close to an intersection. Public comment was opened; Dave Alexander Thomas, 1409 S. Central Ave., spoke in favor of recommending approval of the permit. Maya Monstroti, 301 S. 9th St., spoke in favor of recommending approval of the permit. Heather Hodavance, 112 S. 11th St., spoke against recommending approval of the permit. Elizabeth Texara, 309 S. 9th St., spoke in favor of recommending approval of the permit. Karen Sprague, 1105 S. Daytona Ave., spoke in favor of recommending approval of the permit. Brenda Montgomery, 113 S. 11th St., spoke against recommending approval of the permit. Cynthia Ann Debuque, 20 Rainstone Place, spoke in favor of recommending approval of the permit. Rosa Thanos, 1012 S. Central Ave., spoke against recommending approval of the permit. Carmine Montgomery, 113 S. 11th St., spoke against recommending approval of the permit. Gail Wadsworth, 116 S. Central Ave., spoke against recommending approval of the permit and modifying permit types based on location of business. Craig Kindy, partner in applicant's business, spoke in favor of recommending approval of the permit. Justin Shuler, 2156 S. Flagler Ave., spoke in favor of recommending approval of the permit. Lynn Lafferty, 1011 S. Daytona Ave., spoke against recommending approval of the permit unless there are conditions. Derrick Hodavance, 112 S. 11th St., spoke against recommending approval of the permit. Public comment was closed. City Clerk corrected comments by the Public stating this Board is not the City Commission, but is tasked with making recommendations for the City Commission to consider before making a final decision. Board discussion ensued after public comment. Discussion included; putting decibel meter in business, comparing applicant's business to other businesses with permits, how the business was approved originally based on seating, effects on the surrounding business and residents, discussion with applicant on stipulations, parking requirement for a restaurant vs. parking requirements for an outdoor entertainment permit, permit application as it relates to First Amendment Rights, possibility of applicant and residents coming to an agreement prior to recommendation of approval. Of the fourteen criteria, numbers 1, 4, 5, 7 and 10 were quoted as potentially not meeting the standards for recommendation of approval. The City Attorney clarified the Board cannot mandate limitations for the applicant, but the applicant can offer stipulations as part of the permit. A member of the public was allowed to speak during discussion, Chanel Harrison, customer of the business, spoke in favor of recommending approval of the permit. The Applicant stated no neighbors have ever come to him directly about complaints and he welcomes them to contact him directly. The Applicant offered to include, as part of his permit, no live entertainment after 9:30pm and to installing a decibel meter in the business.

Motion to recommend approval of application OE-24-09-01 with stipulations of no live entertainment after 9:30pm and to installing a decibel meter in the business was made by Scott Chappuis, seconded by Joann Soman

Roll Call: Scott Chappuis, Yea. Joann Soman, Yea. Lisa Smith, Nay. Vice-Chairman Marshall Shupe, Nay. Chairman Joseph Pozzuoli, Yea.

Motion passed three (3) to two (2).

7. New Business - NONE

None

8. Other Business

- a. Board Discussion regarding Commissioner comments from the July 25, 2024 Regular Commission Meeting questioning the calculation of parking spaces relating to affixed vs unaffixed seating and that unaffixed seats are not counted as a part of the parking calculations. The Commissioner comments expressed concern of a need for an amendment to the Land Development Code.

The City Attorney presented item on behalf of the City Planner, Lupita McClenning. The City Attorney explained the purpose of this discussion is to gather information and guidance to draft an ordinance which will be brought back at a later date. Discussion ensued and included; when the fire code and building code come into play with fixed seating, absence of clarity in the code with either/or, formulas having nothing to do with capacity from a planning perspective, should the code require calculations of square footage or fixed seating, occupant load as it relates to seating, parking pool resolved the Flagler Fish Company parking requirements (not all businesses qualify and parking pool is being depleted), the code is too restrictive or not restrictive enough, CRA requirements, golf cart parking, more specificity in code needed, changes in transportation of today and change of use requests.

9. City Planner Report

- a. Discussion with Board to determine interest in transitioning to digital agenda packets via tablet computers in the future.

Secretary Michele Ficocello presented item on behalf of the City Planner, Lupita McClenning. General response from the Board is to move forward with preparing a cost analysis. This item will be brought back at a later date for further discussion when more information is available with the goal of adding potential costs into the 2025-26 fiscal year budget.

- b. Gridics Update

Secretary Michele Ficocello presented item on behalf of the City Planner, Lupita McClenning. Implementation of Gridics Software is moving forward on schedule. The calibration, general review of applications and user testing are currently in-progress.

10. Board Comments

None

11. Adjournment

Motion to adjourn meeting made by Vice-Chairman Marshall Shupe, seconded by Scott Chappuis.

Motion passed unanimously.

Chairman Joseph Pozzuoli adjourned the meeting at 7:06pm

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

LAST NAME—FIRST NAME—MIDDLE NAME WITHERSPOON BRENDA KAY	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE PAR Board
MAILING ADDRESS BWitherspoon @ BellSouth.net	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 Flagler Beach Flagler	NAME OF POLITICAL SUBDIVISION: _____
DATE ON WHICH VOTE OCCURRED _____	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 equally 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 the reverse side and filling 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 inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate 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 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 otherwise may participate 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 other side)

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, Brenda Witherspoon, hereby disclose that on Sept. 3, 2024.

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

- 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 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:

Live within 200 feet of business.

Sept. 3, 2024

Brenda Witherspoon

Date Filed

Brenda Witherspoon

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.