



# City of Pensacola

## CITY COUNCIL

### Special Meeting Minutes

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May 8, 2017

1:40 P.M.

Hagler-Mason Conference Room

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#### ROLL CALL

Council Members Present: Brian Spencer, Gerald Wingate, Jewel Cannada-Wynn, Sherri Myers, Andy Terhaar (arrived 2:22), P.C. Wu

Council Members Absent: Larry B. Johnson

#### ACTION ITEM

**Council President Spencer called this special meeting to order for the following purpose:**

1. [17-00249 QUASI-JUDICIAL HEARING: REVIEW OF ARCHITECTURAL REVIEW BOARD \(ARB\) DECISION - 302 W. ROMANA STREET \(GIRARD PLACE\)](#)

**Recommendation:** That City Council conduct a Quasi-Judicial hearing to review the Architectural Review Board's decision of March 16, 2017 regarding 302 W. Romana Street - Governmental Center District - New Construction, C-2.

First, Council President Spencer explained by reading into the record a summary of how a quasi-judicial process differs from Council's legislative process.

Then, Council President Spencer advised this issue is contested, therefore each Council Member must disclose any ex parte communications.

**Council Members Spencer, Myers, Wingate, Wu, and Cannada-Wynn each disclosed ex parte communications, in the form of letters and emails, from organizations and individuals in support of the Architectural Review Board, not directly related to this issue, but in support in general of the ARB's role in historic restoration; as well as correspondence from the appellant's attorney Mr. Kramer Litvak specific to this appeal. City Attorney Bowling indicated Council Members have provided the appropriate disclosures.**

**Council Member Myers indicated she believes the correspondence received regarding general support of the ARB is not specific to this appeal.**

**CONT'D: QUASI-JUDICIAL HEARING: REVIEW OF ARCHITECTURAL REVIEW BOARD (ARB) DECISION - 302 W. ROMANA STREET (GIRARD PLACE)**

**Council President Spencer also stated that he personally attended and participated at the ARB meeting on March 16<sup>th</sup> related to this issue, therefore he will be abstaining from voting on this issue.**

City Attorney Bowling clarified Council President Spencer may abstain from this issue, referencing Florida Statute 286.012, but is not required. Council President Spencer read the statute into the record.

**Council President Spencer also noted that public input will be called upon later after evidence and witness testimony, but clarified that it is not mandatory that public input be allowed in a quasi-judicial process, and asked for consensus from Council.**

*No objections.*

**City Attorney Bowling cautioned Council that public input does not stand as weight of evidence, but is considered a part of the record. Further, Council President Spencer read from Florida Statute 286.0115 (1)(c)(4)(2)(b) which clarifies, "In a quasi-judicial proceeding on local government land use matters, a person who appears before the decision-making body who is not a party or party-intervenor shall be allowed to testify before the decision-making body, subject to control by the decision-making body, and may be requested to respond to questions from the decision-making body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decision-making body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate".**

At this time, Council President Spencer called on **City staff to present evidence on behalf of the City.** City Administrator Olson indicated both Planning Services Administrator Morris and Inspections Services Administrator Weeks are in attendance.

Planning Services Administrator Morris was called and she summarized the event of the March 16, 2017 Architectural Review Board's discussion and decision(s) during a regular meeting with regard to the approval of the proposed development at 302 West Romana Street (Girard Place). Council Members were provided an opportunity to ask questions which Planning Services Administrator Morris responded accordingly and also referenced minutes from the March 16, 2017 ARB meeting.

At this time, **swearing-in of all witnesses** whom are to give or may give testimony (including Planning Services Administrator whom was previously called) was administered by City Attorney Bowling.

**CONT'D: QUASI-JUDICIAL HEARING: REVIEW OF ARCHITECTURAL REVIEW BOARD (ARB) DECISION - 302 W. ROMANA STREET (GIRARD PLACE)**

**Following, the applicant's representative was called to provide documentary evidence and/or testimony.**

Mr. Kramer Litvak, indicated he is the attorney for the developer/applicant, Segen Ventures, LLC **appealing the conditions imposed by the by the Architectural Review Board for approval of the application submitted for development of 302 West Romana Street (Girard Place) based on the broad standard found in Section 12-2-22 of the Land Development Code (as contained in the Code of the City of Pensacola) Governmental Center District.** Referencing the exhibits provided to Council, he first read into the record (acknowledging the presence of a court reporter) the following exhibits:

- EXHIBIT 1 - 031617 ARB Minutes
- EXHIBIT 2 - Memo of Law from Kramer Litvak
- EXHIBIT 3 - ARB Application
- EXHIBIT 4 - Overhead Slides Presented by Kramer Litvak

*(All exhibits are on file with background materials.)*

Mr. Litvak then provided and entered into the record overhead slides (Exhibit 4). **He indicated he will also be calling on witness testimony.**

**Mr. Scott Sallis, testified under oath responding to questions of Mr. Litvak.** During questioning Mr. Sallis indicated he is a principal of Dalrymple Sallis Architecture and is the Architect of Record for plans which he submitted to the ARB on the owner's behalf for approval of the proposed development at 302 West Romana Street (Girard Place). **Mr. Sallis also responded accordingly to questions of Council Members.**

**Following, Planning Services Administrator Morris was called for further testimony and responded to questions of Mr. Litvak.**

At this time, Council President Spencer acknowledged that Council Member Terhaar is now in attendance and asked him to disclose any ex parte communications he may have received. **Council Member Terhaar indicated he received correspondence in support of the Architectural Review Board, but not directly related to this project, rather general support of the ARB.**

Continuing with testimony, **Mr. Dean Parker, principal of Segen Ventures, LLC, testified under oath responding to questions from Mr. Litvak, as well as Council Members.**

Mr. Litvak indicated he had no further witnesses to call and made concluding remarks. He also requested to reserve any rebuttal (if necessary) following public comment.

**CONT'D: QUASI-JUDICIAL HEARING: REVIEW OF ARCHITECTURAL REVIEW BOARD (ARB) DECISION - 302 W. ROMANA STREET (GIRARD PLACE)**

Public input was heard from the following individuals:

Tom Douthat  
Beverly Perry

Christian Wagley  
Charles Liberis

Mr. Litvak was provided an opportunity for rebuttal which he addressed Mr. Wagley's comments.

**There being no further testimony or rebuttal, Council President indicated he will entertain a motion.**

**Council deliberations took place regarding the following motion:**

**A motion was made by Council Member Wu and seconded by Council Member Cannada-Wynn that City Council overturn the Architectural Review Board decision as was rendered on March 16, 2017 and approve the application as submitted without conditions.**

**Upon conclusion of discussion, the vote was called.**

**The motion carried by the following vote:**

Yes:	5	Gerald Wingate, Andy Terhaar, Jewel Cannada-Wynn, P.C. Wu, Sherri Myers
No:	0	None
Abstained:	1	Brian Spencer

Council President Spencer made follow-up remarks.

**ADJOURNMENT**

There being no further business on the agenda the special meeting was adjourned.

WHEREUPON the meeting was adjourned at 3:29 P.M.

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Adopted: \_\_\_\_\_

Approved: \_\_\_\_\_  
Brian K. Spencer, President of City Council

Attest:

\_\_\_\_\_  
Ericka L. Burnett, City Clerk