



City of Pensacola

CITY COUNCIL

Special Meeting Minutes

March 2, 2022

5:30 P.M.

Council Chambers

Council President Hill called the special meeting to order at 5:33 P.M.

ROLL CALL

Council Members Present: Ann Hill, Delarian Wiggins, Jennifer Brahier, Teniade Broughton (arrived 5:37), Jared Moore, Sherri Myers

Council Members Absent: Casey Jones

Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.

The meeting can also be watched live stream at: [cityofpensacola.com/428/Live-Meeting-Video](https://www.cityofpensacola.com/428/Live-Meeting-Video).

To provide input:

- Citizens may submit an online form here <https://www.cityofpensacola.com/ccinput> **beginning at 3:00 P.M. until that agenda item has been heard** to indicate they wish to speak to a specific item on the agenda **and include a phone number. Staff will call the person** at the appropriate time so the citizen can directly address the City Council using a telephone held up to a microphone. **Any form received after an agenda item has been heard will not be considered.**

ACTION ITEMS

1. [22-00216](#) REVIEW OF A DECISION RENDERED BY THE ARCHITECTURAL REVIEW BOARD CONCERNING 43 SOUTH PALAFOX PLACE, REQUEST FOR DEMOLITION OF A CONTRIBUTING STRUCTURE.

Recommendation: That City Council conduct a quasi-judicial hearing on March 2, 2022 for the purpose of reviewing a decision made by the Architectural Review Board concerning a request for Demolition of a Contributing Structure at 43 South Palafox Place. Further that City Council either, confirm the Architectural Review Board decision, reverse the Architectural Review Board decision or send it back to the Architectural Review Board for further action.

Council President Hill read into the record describing how a quasi-judicial proceeding differs from legislative action and the process which is required to be followed. Further, she indicated **this issue is contested**. As required, she asked Council Members to disclose any ex parte communication, which no Member indicated they had any. She then called on City staff to present the necessary evidence for the record.

Historic Preservation Planner Harding presented evidence into the record on behalf of the City describing the issue as referenced in the background materials as provided in the agenda package dated 3/2/22 with attachments (on file). As contained in attachment one to the memorandum, 12/16/21 Architectural Review Board (ARB) Minutes, he read into the record the motion which was approved by the ARB. He also referenced and provided copies of City Code Sections 12-3-10 and 12-3-27, as well as what was referred to as "Demolition of Contributing Structures Process" which was developed by staff for internal use to properly guide through the process based on City Code (on file with background materials). He clarified the subject building located at 43 South Palafox Place is designated as a contributing structure. Council Members asked questions throughout with Historic Preservation Planner Harding responding accordingly and provided clarification of the motion which was approved by the ARB.

(Upon arrival to the meeting, Council President Hill asked Council Member Broughton to disclose any ex-parte communication regarding this issue which she indicated she had none.)

As discussion continued, Kramer Litvak, attorney representing the appellant/applicant interjected that he would like to address the discussion. Assistant City Attorney Lindsay was first provided the opportunity to address the discussion and offered clarification as to the intent of the ARB decision and the options for Council to consider in reviewing the decision of the ARB. Discussion continued with Historic Preservation Planner Harding and Assistant City Attorney Lindsay responding accordingly to questions from Council Members both of whom were present during the 12/16/21 ARB meeting.

Kramer Litvak, attorney representing the appellant/applicant was provided an opportunity to address Council explaining their position and interpretation of City Code applicable to the request for demolition of the building and waiver of replacement plans. He offered a different interpretation of the motion made and approved by the ARB. Council Members asked questions of Mr. Litvak, Assistant City Attorney Lindsay, and Historic Preservation Planner Harding. Throughout discussion, Mr. Litvak argued the appellant's position and rebutted responses from staff. He was also provided the opportunity to present overhead slides of the subject building and property, as well as adjacent buildings/properties which the appellant owns and has completed or has ongoing redevelopment projects (on file with background materials). City Building Official Bilby (attending via Microsoft Teams) also responded accordingly to questions from Council Members related to the unsafe conditions of the building.

As discussion continued, the appellant/applicant/principal owner of the property, Bob Switzer, indicated he would like to testify. Assistant City Attorney administered the swearing-in of Mr. Switzer and he then addressed Council further arguing his position related to the request for demolition of the building and waiver of replacement plans. He responded accordingly to questions from Council Members. Mr. Litvak also continued to speak on behalf of the appellant's position.

Upon conclusion of arguments, Council entered into deliberations with Assistant City Attorney Lindsay clarifying Council's options under the Code. Historic Preservation Planner Harding also provided input as well as Mr. Litvak.

Council Member Myers suggested the issue be referred back to the ARB and Council Member Wiggins concurred. **Council Member Broughton indicated she is not in favor of referring it back to the ARB and (based on clarification from City Clerk Burnett) made a motion to confirm the 12/16/2021 decision of the Architectural Review Board and Council Member Brahier seconded.** Mr. Litvak indicated he would like the issue to go back to the ARB. Historic Preservation Planner Harding clarified that if Council upholds the 12/16/21 decision of the ARB the applicant is not prohibited from going back to the ARB with the same request. **Council Member Moore suggested clarifying the motion by also including that City Council deny approval of the demolition of the building and not waive the requirement for replacement plans. Council Members Broughton and Brahier both agreed.**

There being no further discussion, the vote was called.

The motion carried by the following vote:

Yes: 6 Ann Hill, Delarian Wiggins, Jennifer Brahier, Teniade Broughton,
 Jared Moore, Sherri Myers
No: 0 None

DISCUSSION ITEMS

None

ADJOURNMENT

This being a special Council meeting and there being no other business on the agenda, the meeting was adjourned.

WHEREUPON the meeting was adjourned at 7:43 P.M.

Adopted: _____

Approved: _____
Ann Hill, President of City Council

Attest:

Ericka L. Burnett, City Clerk