



City of Pensacola

CITY COUNCIL

Special Meeting Minutes

June 22, 2022

5:30 P.M.

Council Chambers

Council President Hill called the special meeting to order at 5:32 P.M.

ROLL CALL

Council Members Present: Ann Hill, Delarian Wiggins, Jennifer Brahier, Teniade Broughton (attended virtually via Microsoft Teams), Casey Jones (arrived 5:33; left 6:36), Jared Moore, Sherri Myers (attended virtually via Microsoft Teams - - left meeting at 7:35)

Council Members Absent: None

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 ITEM

1. [22-00696](#) QUASI-JUDICIAL HEARING - REVIEW OF ARCHITECTURAL REVIEW BOARD (ARB) DECISION REGARDING 313 E. JACKSON STREET - REQUEST TO KEEP UNAPPROVED ROOFING

Recommendation: That City Council conduct a quasi-judicial hearing on June 22, 2022 for the purpose of reviewing a decision made by the Architectural Review Board concerning a Request to Keep Unapproved Roofing at 313 E. Jackson St. 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.

Council President Hill read into the record describing how quasi-judicial proceedings differs from legislative proceedings 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 communications, which no Member indicated they had any. She then called on City staff to present the necessary evidence for the record.

Assistant City Attorney Lindsay administered the swearing-in of Historic Preservation Planner Gregg Harding, who presented evidence into the record on behalf of the City describing the issue and **applicable City Code Sections 12-12-3 (5) b, 12-3-10 (3) a and b, and 12-3-10 (3) i applied by the ARB in their decision for denial of the (recently installed) unapproved R-Panel roofing rather than (previously ARB approved) Standing Seam roofing**, as referenced in the background materials provided in the agenda package dated 6/22/22 with attachments (on file). He detailed the abbreviated review application process which the ARB Chair referred to full Board review and provided an overhead presentation (the same that was provided to the ARB at the May 19, 2022 meeting - - on file) that included pictures of numerous structures within the Old East Hill Preservation District with R-Panel roofing rather than Standing Seam roofing. He indicated that in searching the records, many of the R-Panel roofs were installed without ARB approval and/or proper permitting, or prior to the precedent that R-Panel was not in keeping with the historic character of the district.

Assistant City Attorney Lindsay administered the swearing-in of appellant/applicant/building contractor/principal owner of the property Nanette Chandler who was provided an opportunity to address Council with her testimony and any evidence. She described her background as a builder and developer, experienced in preservation of historic structures as well as new construction within historic/preservation districts in the City of Pensacola. She explained how the unapproved R-Panel roofing came to be installed rather than the previously approved (by the ARB) Standing Seam roofing. She stated her position that there is not any specific guidelines or specification of materials written in the Land Development Code and referencing twenty-one (21) other properties in the Old East Hill Preservation District with R-Panel roofing that her case appears to that of selective enforcement. She also cited 720.3035 F.S. which she interprets as requiring published guidelines and standards.

ACTION ITEM (CONT'D.)

Assistant City Attorney Lindsay advised that if either party, City staff or the appellant/applicant, has any objection to the evidence presented in the agenda packet materials, they should state their objection. Further, any public input received, Council will need to determine if that information is evidence or opinion and cautioned that opinion should not control the day.

Ms. Chandler was provided an opportunity to further address Council and indicated that she believes everything presented by staff was accurate. She further indicated that all structures in OEH identified as having unapproved roofing (as referenced in the evidence) should be required by the City to have corrective action taken against their properties in the same manner as hers, and suggested deed modifications requiring compliance with approved materials upon replacement which would provide proper legal notice if transfer of property occurs; and further, that the City needs to amend the Land Development Code to specify guidelines and standards of approved materials for development in OEH pointing to ARB Member Mead's comments (as reflected in the May 19, 2022 meeting minutes - - provided in the agenda packet materials). She indicated that she would like a fair resolution to this issue to move forward for the OEH District as a whole.

Ms. Chandler responded accordingly to questions from Council Member Moore regarding differences in metal roofing materials. He then inquired of City legal counsel as to Ms. Chandler's legal position related to her citation of 720.3035 F.S. City Attorney Lindsay advised that she respectfully disagrees with Ms. Chandler's interpretation and application of that statute to her case and explained why, in her legal opinion, it is not applicable for Council's consideration. Historic Preservation Planner Harding also responded to Council Member Moore's questions regarding the establishment of Old East Hill as a preservation district (which was originally named West East Hill Preservation District).

Prior to addressing Council, all public speakers were sworn-in by Assistant City Attorney Lindsay. Public input was heard from the following individuals who identified themselves as property owner/residents and/or officers of OEH Preservation District Property Owners' Association:

Pat Muesel

Lou Courtney

Michael Courtney

Christian Wagley (indicated he also had copies of two (2) letters from individuals not present. Assistant City Attorney advised that such letters, in her opinion, are not admissible since they would be considered hearsay. Consensus among Council was to decline receipt of said letters for consideration during the hearing).

ACTION ITEM (CONT'D.)

Following public input, Ms. Chandler was provided an opportunity to rebut comments made by speakers and ask questions of staff, which she did so. Historic Preservation Planner Harding and Assistant City Attorney Lindsay responded accordingly with rebuttal and response from Ms. Chandler.

Questions from Council Members ensued with Historic Preservation Planner Harding, Assistant City Attorney Lindsay, and Ms. Chandler responding accordingly.

Assistant City Attorney Lindsay suggested Council enter into deliberations. Ms. Chandler was provided an opportunity to make closing remarks and she addressed Council reiterating that she would like resolution of this issue fairly applied to her and the other twenty-one (21) property owners with non-compliant roofing materials (as previously referenced), that all roof materials need to come into compliance, but the question is when and that she be granted a temporary Certificate of Occupancy.

Deliberations ensued among Council with Historic Preservation Planner Harding and Assistant City Attorney Lindsay responding accordingly to questions.

Following rigorous deliberations, Council President Hill indicated she would entertain a motion. Assistant City Attorney Lindsay clarified and suggested options for course of action by Council.

Council Member Moore made a motion that City Council confirm the Architectural Review's Board's decision of denial (during the May 19, 2022 ARB meeting).

Motion died due to lack of a second.

Discussion took place regarding how Council should move forward in deciding this issue with guidance from Assistant City Attorney Lindsay (which she recommended not referring the issue back to the ARB). It was discussed among Council with advisement from Assistant City Attorney Lindsay that Council could uphold the decision (of denial) from the ARB but grant a temporary Certificate of Occupancy for Ms. Chandler on condition of execution of a legal document specifying compliance of roofing materials at a later time. Assistant City Attorney Lindsay and Historic Preservation Planner Harding responded accordingly to questions.

Council Member Brahier made a motion and Council Member Wiggins seconded as follows (with wording assistance provided by Assistant City Attorney Lindsay): That City Council affirm the decision of denial from the Architectural Review Board (during the May 19, 2022 ARB meeting); however, to allow the applicant to receive a Certificate of Occupancy on condition to execute a deed restriction to come into ARB compliance with a Standing Seam roof.

ACTION ITEM (CONT'D.)

Discussion ensued regarding the motion with Assistant City Attorney Lindsay and Historic Preservation Planner Harding responding accordingly to questions.

Upon conclusion of discussion, **Assistant City Attorney Lindsay was requested to clarify the motion which she did as follows: that City Council affirm the Architectural Review Board's denial (during the May 19, 2022 ARB meeting) of the appeal of Ms. Chandler (applicant). However, to allow Ms. Chandler a Certificate of Occupancy subject to her agreement to a deed restriction, to be recorded in the public records, the terms of which would require her to replace the (R-Panel) roof with the compliant (Standing Seam) roof, so she can get clear title to sell the property to the next property owner. No objection from Council Member Brahier (mover) or Council Member Wiggins (seconder).**

The vote was called.

The motion carried by the following vote (with Council Members Jones and Myers no longer in attendance):

Yes: 4 Ann Hill, Delarian Wiggins, Jennifer Brahier, Teniade Broughton
No: 1 Jared Moore

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 8:14 P.M.

Adopted: _____

Approved: _____
Ann Hill, President of City Council

Attest:

Ericka L. Burnett, City Clerk