

**TUESDAY, JANUARY 25, 2022
CITY COMMISSION MEETING – 5:30 P.M.**

Present: Jesse Nelson, Mayor
Brandon Aldridge, Commissioner
Pat Perno, Commissioner
Jamie Warrick, Commissioner
Judy Tinder, Commissioner
Vickie Gainer, City Manager
Chief Ricky Ramie, Sergeant at Arms
Kevin Obos, City Legal Counsel

Item #1. Call to order.

Mayor Nelson called the meeting to order at 5.30 P.M.

Item #2. Invocation was given by Pastor Frank Stephens, Retired Pastor & Lynn Haven resident; and the Pledge of Allegiance.

Item #3. Public Commentary.

George Hines 1603 Rhode Island Avenue - Speaking on behalf of Acure, which started small in the County in 2017 and has grown. The money we get from the vendors goes to scholarships. Thanked the City for participating with them at the MLK festival.

Jodi Moore Amhurst Street - Marina Island - have any of you sitting up here directly profited. Are you or will you be an investor in anything to do with Marina Island? If so, you should refrain from voting. If anyone has directly profited, they can answer this question in their reports.

Item #4. Mayor's Report.

The Mayor thanked everyone for being here today. Had a great time at MLK festival with Acure and it was a great program. Met with Jay Trumbull and the City Manager about the current and future projects of Lynn Haven and is grateful for his assistance.

Regarding citizens' concerns, there have been many FB messages concerned about the de-annexation.

Though it is not storm season he has been liaising with the City Manager and Chris Lightfoot about stormwater concerns with residents.

The Mayor advised he does not have any profit bearing investments in Marina Island, and no vested interest.

Congrats to the students of Lynn Haven for the great things they are doing. The North BH weightlifting team are doing so well. Looking forward to spring ball coming up. It is COLD out there.

A. Proclamation - Arbor Day

The Mayor read and signed the proclamation.

B. Proclamation - Black History Month.

The Mayor read and signed the proclamation.

Item #5. Commissioners' Reports.

Commissioner Aldridge - Received emails from residents regarding stormwater. Thanks employees and city staff for keeping things moving forward. He is getting many compliments from the public. Have no financial interest in Marina Island.

Commissioner Perno - No financial prospects with Marina Island. Thank the staff, and thanks everyone for the well wishes for myself and my family.

Commissioner Warrick - No financial interest in Marina Island and promises he will not directly profit from it. He had one person show up for his "time with a Commissioner". It was still a good time. Last time he spoke about traffic tickets being set by the state. There is also a local option tax he is learning about and how they disperse it. Also, with permits for the food trucks being set by the County and not the City, etc. He would like to empower municipalities to manage their own facilities, so he is going to write a letter to Jay Trumbull and the Florida League of Cities.

Commissioner Tinder - Dealt with a few issues for residents this week. She invited Chris Lightfoot to speak to her request for a list of roads that are going to be paved. A couple of weeks ago they paved her street for 3 blocks. For the sake of transparency Commissioner Tinder asked Chris Lightfoot if she had given him anything to pave her street? Mr. Lightfoot answered no. Commissioner Tinder said that she has no financial interest in Marina Island.

Item # 6. City Manager's Report.

A. Warrant list update - there were no queries - Commissioner Tinder asked who Donald Smith for the check for \$62,610 and Ms. Roman answered it was for well no. 4 rehab. Commissioner Tinder asked about the check for \$25k to ARF Power sports and Ms. Roman answered it was for Polaris Rangers - it is for two ATVs for the police department and being purchased with the Covid grant.

City Manager said she has a check for \$49,277.50 for Tetra Tek in relation to Hurricane Michael.

Working on Black History activities for month of February and more details will come out soon.

Softball has been very successful with the kids, and they love their games.

Thanks Rotary club for their involvement with tree give away this past weekend. City Manager reminded everyone that proclaiming Arbor day and these types of activities contribute toward the City's standing as a Tree City.

Fire Services is about 75% complete and we have 4 walls now, so we are getting there.

Working on information for the strategic workshop for the Aesthetic corridor and the staff strategy workshop.

First Table Talk of the year this Thursday.

Item # 7. City Attorney's Report.

City Attorney - in terms of what Commissioner Warrick said, being a new Commissioner, he is going to see it more and more, it's basically referred to as the "attack on home rule" where the state has taken over some local issues over the years, starting with guns control ordinances, then vacation rentals and now the food trucks etc. He encouraged the Commissioners to work with Florida League of Cities to mitigate and prevent this type of State control.

CONSENT AGENDA

Item # 8. Minutes dd 1/11/22 - Regular meeting minutes.

Motion by Commissioner Warrick: To approve all items on the Consent Agenda as presented.

Second to the Motion Commissioner Tinder

On Vote:

Warrick aye
Tinder aye

Perno aye
Aldridge aye
Nelson aye

Motion passed: 5-0

OLD BUSINESS

Public Hearing - opened 5.52pm

Item #9. Final Reading of Ordinance 1124 - Petition for Contraction by James Finch; Parcel # 11573-008-000; Highway 389.

City Manager read the ordinance by title only.

Planning Director explained the item.

Commissioner Warrick - did we promise them anything before they annexed into the City for this development? Planning Director said no, when they called initially, they said they wanted to annex it in and said that mixed use was the land use they wanted to use and asked what the allowable density was, and they were told exactly what she had just described to the Commission.

Commissioner Perno - original size of 9.7 acres and they want to put 90 units on there and discovered the code required two entrances for over 50 units. So, the code is one of the reasons this is happening. Did we think about looking at our code as a possibility of changing our code on a case by case basis? These people have tried numerous things to work this out. Have we exhausted every avenue to make this thing work? Mayor asked were they aware of our codes before they applied to annex in? Planning Director said they were aware because they had developed a parcel across the road from this one, Landin's Landing, and that had the same situation. The Commission directed us to meet with the County to negotiate to allow them to have two access points where one of the access points would just be an exit. So, they had already developed a property with these requirements. The Planning Director advised that the requirement of having two entrances for anything 50 and over is withing our comprehensive plan, governed by the State.

Commissioner Warrick - can we ask questions of the agent or developer? Mayor invited them to come forward.

Commissioner Warrick asked regarding one of the paragraphs in an email he received in July, if anybody promised them anything like they said in that paragraph? The agent said he wasn't part of that discussion so he cannot say. Commissioner Warrick said he is hard pressed so would think he would have the answer to that. Commissioner Warrick asked the City Manager if she had promised them anything. City Manager answered no she would always answer by the code. Commissioner Warrick - the reason I ask is that I feel we are being accused of something we promised, and you say you have no idea if promises were made. Agent said he was not part of that discussion. Warrick asked if he speaks to the developer and has asked him that? Agent said the developer said he feels like that promise was made. Commissioner Warrick said that there is nothing in writing about any agreements made and he encouraged that people should always get things in writing as a matter of good business sense. Commissioner Perno asked is there mitigation points in terms of using delineated wetlands. Agent said their experts say there is no way they will be able to get a road permitted in there. Agent answered he may be right but at some stage it becomes cost prohibitive. Commissioner Perno asked then what is the cost of the 40 extra units if they get that extra entrance? The agent replied that was true and they may look into that, but as of right now it wasn't a possibility.

Commissioner Warrick asked if there is a disagreement in the ULDC as to whether they can have two entrances. The agent answered yes. Commissioner Warrick asked if he knows what that disagreement is? Agent advised the code says for up to 50 units one entrance required but it doesn't say anything about over 50 units. So, it ultimately is the City's interpretation. Attorney Obos - the way staff has been interpreting that for years is that if it is over 50 you require more than one

access, so they have designated it as two accesses.

Commissioner Warrick - you have another development in the City with over 50 units, don't you? Agent answered yes, the one across the street is 74 units. The other issue is that we are coming out on a County road and the County doesn't want two entrances, they only want one. So, you have used this code before and understand it is two.

Commissioner Warrick - if I was a developer, I would make sure I had all those questions in place to ask the City to ensure I have all my ducks in a row.

Commissioner Perno - how can they go to the County and get everything with one entrance, and they cannot get it here.

Attorney - it is not just in the UDLC it is also in the comprehensive plan.

Planning Director - the UDLC has to be consistent with the comprehensive plan, so comprehensive plan takes precedent. The section about 50 units is under multifamily residential and it actually states when it comes to infrastructure that it should follow the section for general subdivision requirements except that if it is multifamily it has to have one access if under 50 dwelling units. If it is not multifamily then 30 is the cut off.

Agent said if this is not possible all they are asking is to go back to where they were before they annexed back into the city.

Mr. Walker - 1106 Michigan Avenue - for years we always allowed one way in and one way out, e.g., schools. 1. When was the ordinance passed, and 2. Did you sign it off with the single entrance? Planning Director said it was when the development order was submitted to the City we told the developer it did not meet the code for their development. When was this ordinance passed and were other developments in violation? One way in and one way out is not correct. Seems we made a mistake here.

Cory Laken - Louisiana Avenue - there has been some new information come to light tonight so glad I came. Would like to discuss his concern that if there is a code in place and we cannot follow that code for whatever reason like de-annexing if you disagree. So, if you set this precedent, then in the future if you don't let me subdivide my property shall I just request a de-annex? Also seems you don't have a code for this. We have to find a way to resolve this so the developer can build houses and bring taxes to the City. Sounds like it was a poorly written standard. Would like to see a clearly outlined standard.

Mayor asked Planning Director to speak regarding the interpretation of the code. Has there ever been any rebuttal from developers over the years. Planning Director said No this is the first time and with their other development. [Planning Director went to fetch the land code to read].

Ryan Scray - Missouri Ave - lot of talk about precedent. City learns as they go. This City is doing a great job of looking ahead instead of saying we have always done it that way. His concern is always safety and is concerned about only putting one access in a development like that. What is the cost of a life? Camryn's Crossing only has one access which is dangerous. Would suggest working with the developer to create a safe alternative. Attorney said it is different rules for single and multifamily and Camryn's Crossing is single family.

Planning Director read the code, saying that the code also says clearly that the interpretation of the code falls solely on the City Manager, and since 2012 every City Manager has interpreted it the same, that it requires two points of access.

Commissioner Warrick asked what stops another developer in the future wanting to de annex because it is not advantageous to them. Attorney answered that you cannot create an enclave. You cannot go into the 1911 plat, and you have a vacant lot and decide you want out because of the City's rules. There is public policy and State rules against creating enclaves (a lot of County surrounded completely by City). In this area it is spotty with some parcels being in the County and

others in the city, so you are not creating an enclave. You don't need this parcel to have a contiguous city connection.

Commissioner Warrick - our job as Commissioners is to do what is good for the City. Hands are tied because State dictates a lot of code too so really not a whole lot we can do. Concern about a lot of new traffic if it is annexed to the County.

Motion by Commissioner Perno: To deny the de-annexation in order to work on our code and get a remedy between the City and the developer on an individual basis, and for future reference, starting immediately.

Commissioner Tinder suggested a time frame.

Attorney suggested 30 days.

Planning Director said any text amendments to the code have to be sent to the State by resolution and they have 30 days to review and then two ordinance readings and then it goes back to State for 30 days to see if it is challenged.

Commissioner Warrick said we are doing an awful lot for the developer, and it is now falling onto the City.

Commissioner Warrick if this does not get passed does that mean they can de-annex? Attorney said no.

Discussion ensued.

Mayor reminded everyone that there is a motion on the floor and asked if they would like to amend the timeframe.

Attorney said that if it is denied then the applicant has certain appellate rights which are triggered at 30 days from rendering the decision, so suggests using the same timeline if they want to start another process.

Amended Motion by Commissioner Perno: To deny the de-annexation in order to work on our code and get a remedy between the City and the developer on an individual basis, and for future reference, starting immediately and completing in 30 days.

Commissioner Warrick asked if this does not get passed does that mean they de-annex from the City? Attorney answered no, the ordinance is to allow the de-annexation so if you deny the ordinance, you deny the de-annexation, they're still in the City and they have whatever rights they have after that.

Mayor explained if you vote yes, they get de-annexed and if you vote no they don't get de-annexed. If you vote for this motion you vote to deny the de-annexation.

Attorney advised that right now you have a motion to deny, if this doesn't pass you have to make another motion.

Second to the amended Motion Commissioner Tinder

On Vote:

Perno	aye
Tinder	aye
Warrick	no
Aldridge	no
Nelson	no

Motion failed: 3-2

Motion by Commissioner Warrick: To deny the de-annexation.

Second to the Motion Commissioner Aldridge

On Vote:

Warrick	aye
Aldridge	aye
Tinder	no
Perno	no
Nelson	aye

Motion passed: 3-2

Public Hearing - closed 6.35pm

NEW BUSINESS

Item # 10. Discussion and possible approval to award Morris Enterprises bid #21/22-03 for the Operational Lease for Park Food & Beverage Concessions.

Parks and Recreations Director explained the item.

Motion by Commissioner Aldridge: To approve the award of bid #21/22-03 to Morris Enterprises.

Second to the Motion Commissioner Tinder

On Vote:

Aldridge	aye
Tinder	aye
Warrick	aye
Perno	aye
Nelson	aye

Motion passed: 5-0

Item # 11. Discussion and possible approval of the American Rescue Plan funded projects.

Public Works Director explained the item.

Motion by Commissioner Aldridge: To approve the American Rescue Plan funded projects list.

Second to the Motion Commissioner Perno

Mr. walker asked if this is part of the program of 3 years ago connecting the schools? The Economic Development Director said it is a different project.

On Vote:

Aldridge	aye
Perno	aye
Warrick	aye
Tinder	aye
Nelson	aye

Motion passed: 5-0

Item # 12. First reading of Ordinance 1126 - Removing the permit fees for food trucks per the Florida Statute Sec 509.102, FS of 2020.

City Manager Gainer read the ordinance by title only.

Attorney explained this ordinance is just to comply with the new state law statute. We still charge an event fee, and this is simply the annual permit fee.

Commissioner Tinder - does it change anything about where food trucks can go or anything else

we have in place?

Attorney advised we can still regulate our own requirements. Just not the permit.

Commissioner Tinder - cleanliness?

Attorney - if you see an issue call the state health department to inspect. They still have to be permitted by the State.

Mayor said we often get emails from Florida league of City's encouraging us to challenge the State for more autonomy.

Item #13. Discussion and possible approval to submit the City's updated Rails to Trails grant scope of work to FDOT

CRA Director explained the item, per his report.

Mayor - is this in regard to the timeframe to establish the agreement between the City and FDOT?

Attorney answered yes.

Motion by Commissioner Perno: To approve the submission of the City's updated Rails to Trails grant scope of work to FDOT.

Second to the Motion Commissioner Warrick

Mr. Walker - clarified in reference to the contract between the air force, Marina Island, and the City - have you come to a conclusion about the original contract? Ben advised the city has an easement on that property to give us the ability to build the rails to trails - today.

On Vote:

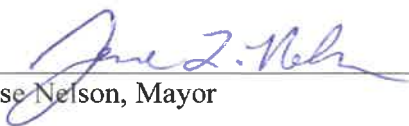
Perno	aye
Warrick	aye
Tinder	aye
Aldridge	aye
Nelson	aye

Motion passed: 5-0

Item # 14. Adjourn.

There being no further business the meeting adjourned at 6.47 P.M.

APPROVED THIS 8th DAY OF FEBRUARY 2022.



Jesse Nelson, Mayor

ATTEST: - 

Vickie Gainer, City Manager

prepared by

Cicelia J. Holliday