

**MINUTES  
FOR THE CITY COUNCIL MEETING OF MAY 11, 2023**

The regular meeting of the Mandeville City Council was called to order by the Council Chairman at 6:00 p.m. followed by roll call.

**ROLL CALL - present:** Jason Zuckerman, Rick Danielson, Skelly Kreller, Rebecca Bush (arrived 8:30pm), Jill McGuire

**Also present:** Keith LaGrange, PW Director, Elizabeth Sconzert, City Attorney, Kathleen Sides, Finance Director, Mayor Madden, Cara Bartholomew, Planning Director, Joanna Anderson, HR Director

Mr. Danielson explained Mrs. Bush will be late for the meeting. He also wanted to review some conduct rules for the meeting. There will be no raising of signs, clapping, booing, etc. in the chamber.

**MINUTES:**

Adoption of the April 27, 2023, meeting minutes. A motion was made by Mr. Zuckerman and seconded by Dr. Kreller. With no further comments or questions a vote was taken and the minutes were adopted 4-0.

**REPORTS AND ANNOUNCEMENTS:**

Mr. Danielson stated the Mandeville City Council is soliciting resumes for their appointment to the Mandeville Planning & Zoning Commission. Please send your resume to the attention of: Mandeville City Council Clerk, 3101 East Causeway Approach, Mandeville, LA 70448 or [kscherer@cityofmandeville.com](mailto:kscherer@cityofmandeville.com). **Deadline: Thursday, May 25, 2023.** Mr. Danielson reminded everyone the last Trailhead concert is Friday which will feature After Party. This weekend is the OMHA Mother's Day Tour, and the Hazardous Waste Collection from 8-noon. The Trailhead received 10 new cans from the KLB trash grant program. May is National Mental Illness month and the NAMI walk is Saturday May 20<sup>th</sup>. The MPD has formed a team if you would like to join. Also, a reminder school is ending so be aware of kids in the neighborhood. Congratulations to all the high school graduates. And with the end of school, the SRO's will now be back on patrol for the summer. Finally, upcoming on May 28<sup>th</sup> is the Mandeville Family Reunion.

**PRESENTATION:**

Mr. Thomas Mitchell, Executive Director of the Children's Advocacy Center discussed Hope House and its benefit to the community. Hope House is dedicated to ending the cycle of child abuse in our community and provide a path to recovery and a bridge to justice for victims of abuse. This past year alone, Hope House has assisted 13 children from the City of Mandeville. Hope House has a "Button for Bravery" jar to symbolize every brave child who has come forward seeking help. Each child gets to pick out a button and place it in the jar to symbolize taking the first step towards recovery. Mr. Danielson asked how can a resident get involved aside from volunteering? Hope House also still provides stuffed teddy bears to children to aid their recovery called "Bear it Together". If residents would like to donate a new teddy bear, they can drop them off with the Council Clerk and we will bring them to the center.

**OLD BUSINESS:**

1. Adoption of Ordinance No. 23-14; AN ORDINANCE FOR THE CITY COUNCIL OF THE CITY OF MANDEVILLE TO AMEND ORDINANCE NUMBER 22-18, THE OPERATING

## BUDGET OF THE CITY OF MANDEVILLE AND FOR OTHER MATTERS IN CONNECTION THEREWITH

A motion was made by Mr. Zuckerman seconded by Mrs. McGuire. Mr. Danielson explained this is for numerous items that have been previously discussed at our quarterly budget workshop. The main item is the addition of \$450K for the next phase of the Florida Street planting program. This project was taken out of the budget and now is being put back in. We are reducing the income because we were obligated by FEMA in FY 22 for \$6 million, we received \$4.6 in FY23, but we had to recognize this in FY22. The other big jump is when the 23 budget came out, the new agreement was not done with the SRO's and the parish. This reflects the salary survey changes, COLA changes and the addition of a new school SRO, for a total of 7 SRO's. Mr. Runyon sent an email to the council and discussed one time funding vs recurring revenue. In the middle of the year raising the budget by \$450K for a project, it is concerning when a few months ago we were cutting things to have a balanced budget and now he is questioning the recurring revenue. He asks why we do not put the P&Z project in the budget for next year. Mrs. Sides explained we are \$2 million over in revenue not including one time revenue. Also, in capital projects, we have money obligated, but will not see a payout until next fiscal year. Mrs. Sides also expects the Florida project to be completed this fiscal year. Mr. Zuckerman wanted to ask why you would exclude any money in the budget. Mrs. Sides stated we expect to receive some one-time income but not guaranteed. Mr. Zuckerman stated so the projection revenues will exceed expenditures even with this project in the budget. Mrs. McGuire asked if the project would come back to the council or if we are voting on this tonight. Ms. Bartholomew stated the plans came before the council and we decided to phase out the project to test how the plants would work in just a 4-block area before completing all 12 blocks. Some changes have been made and they feel confident with the proposed plans based upon the last 2 years. Dr. Kreller explained it was taken out because we were having a deficit and now it is coming back in. Mrs. McGuire asked how long the maintenance contract is. Ms. Bartholomew stated the 2yrs has almost expired so the new maintenance will fall under the planning & development line item. Dr. Kreller asked how much was the maintenance? He does not want their budget to be consumed with maintenance instead of projects. Ms. Bartholomew explained it was \$20K and the overall maintenance budget is \$500K, not just for Parks and Parkways. Last year the main project was the Street Tree program. Mrs. McGuire feels the original design of parks and parkways was to be a tree board. Over the years it has evolved to more landscaping. She would like to wait until the budget process to look at this project. Last meeting the council brought up all sorts of projects they would like to do. This was looked at with phase 1 and we knew it would not have irrigation and that would be part of the maintenance. During this past 2 yrs. she has received a lot of complaints about some beautification projects not looking the way they should. Different projects were approved or not approved and there are a lot of citizen questions. She wants to make sure the citizens can look at this phase and wait until the budget process. Mr. Danielson likes the project and during the initial budget review when projects were cut, the goal was to put this project back in the budget if we had the revenues. Ms. Sides feels the money is there and we can go forward with the project. Dr. Kreller feels the past projects have been a success and look beautiful. Mr. Zuckerman stated on the capital side we have monies not being spent. Do we have a feel of what is budgeted vs what we will spend in FY23. Mrs. Sides stated as of today general fund budget is \$4.2 million and we have spent about half. Mrs. McGuire stated the budget process has started so she feels this can wait. Ms. Bartholomew explained they feel they can complete this project before the end of the budget year. The mayor explained there are always capital projects that we do not spend the allocated money in the fiscal year. We need to allocate the money

in order to budget and this year, they have numerous projects that will not get started this year. With no further comments or questions, a vote was taken, and the ordinance passed 3-1 (McGuire against) (Bush absent).

2. Adoption of Ordinance No. 23-15; AN ORDINANCE FOR THE CITY COUNCIL OF THE CITY OF MANDEVILLE TO AMEND ORDINANCE NUMBER 22-17, THE CAPITAL BUDGET OF THE CITY OF MANDEVILLE AND FOR OTHER MATTERS IN CONNECTION THEREWITH A motion was made by Mr. Zuckerman, seconded by Mrs. McGuire. Mr. Danielson explained this is a reduction in streets by \$568,344. Mr. Danielson stated since the last meeting the administration had encountered an additional professional service agreement because of a performance judgement against the city. He would like to make a motion to add \$50,000 for Ravine Au Coquille Watershed Modeling Project; seconded by Dr. Kreller. This would result in a net decrease of \$518,344 in the streets fund. Mr. Runyon asked what judgement this is about? Mrs. Sconzert explained in 2022, the city received a final judgment for a 12 yr. old lawsuit, Maestri vs. the City of Mandeville. This is the first step of the performance judgement. Mr. Runyon asked why this was not in the revised packet? Mr. Danielson explained the judgement came after the ordinance was introduced. The only way to amend an ordinance once it is introduced, is a motion on the floor, which is what is happening now based upon legal advise. Mr. Runyon wished the citizens were aware of this prior. Mr. Burguieres asked what is the exposure on the judgement? What will it cost the city? Mrs. Sconzert explained the city has been budgeting for this in the legal fees. The modeling will give them a better idea as to what the fix will cost. The city. With no further comments or questions, a vote was taken, and the amendment passed 4-0. Now with the amended ordinance. With no further comments or questions, a vote was taken, and the ordinance passed 4-0.

**NEW BUSINESS:**

1. Adoption of the special event application for Light Up the Lake, Monday, July 3, 2023, starting at 6:00 pm on the Mandeville Lakefront, map attached. A motion was made by Dr. Kreller, seconded by Mrs. McGuire. Mr. Danielson explained this is the annual event. The mayor explained this year the fireworks will be back to the middle of the Lake. Mrs. Rohrbough asked if there could be a max for the decibel level for the band – the music is very loud. Mr. Danielson asked the administration to work with the band on the volume request. With no further comments or questions, a vote was taken, and the application passed 4-0.

2. Adoption of the liquor license for Tandem Coffee and Cocktails to be located at 424 Girod Street, Mandeville, LA. A motion was made by Dr. Kreller, seconded by Mrs. McGuire. Mrs. McGuire explained this is a new coffee & cocktail bar and all their paperwork is in order. With no further comments or questions, a vote was taken, and the application passed 4-0.

3. Adoption of Resolution No. 23-17; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE TO RE-ESTABLISH AND LIMIT THE DESIGN GOALS AND OBJECTIVES FOR THE MANDEVILLE LAKEFRONT WETLANDS RESTORATION PROJECT AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH. A motion was made by Mr. Zuckerman and seconded by Mrs. McGuire. Mr. Zuckerman explained following the budget last August. The berm project has been around for several administrations and over the years the project has grown as different design objectives and criteria were developed. It has not only grown in size but also grew in cost. Last August we kept the budget at \$3 million and reestablished the goals to restore and protect the wetlands and provide some wave protection for the homes beyond it. He feels like the project was not going anywhere design wise so he wants to reestablish the goals and reaffirm that we want this to be a wetland restoration protection project

and by restoring the living shoreline we would provide some wave protection. It provides visually low impact strategies to limit the scale and height, including underwater structures and technologies and rip rap. He wants to encourage the design to become more of a living shoreline while keeping the visual impact of the lakefront. Mr. Danielson agrees with the intent and the goals, it is helpful to get a timeline from Mr. LeBreton and why the design is currently designed as is. Mr. Zuckerman also wanted to make sure the final design comes back to the council before it goes to bid. Mr. LeBreton explained in 2010 NRCS developed a report with the intention for marsh recreations. 2010-2011 city submitted a grant for the berm project, funds awarded in April 2011. At that point, UNO's research team put it together as the berm project of \$3 million with a pathway across. August 2011, a CEA was developed with the green fund with the same terms. Oct 2011 design efforts commenced. 2011-2012 additional modeling was done and that is when permitting started. 2013-2015 consisted of back-and-forth comments with permitting. 2016-2018 updated permits to keep active with additional studies for flood insurance. 2021 is when the initial \$3 million was budgeted. 2022 there was an amendment for sidewalk and additional lighting. The big think is what is the project to be: tidal protection, marsh creation. The initial reports basically state you cannot have both without the change in height.

The council removed the bridge on the Galvez side. There were lots of options with consideration of height and how it impacts tidal protection. Mr. Danielson stated there are a lot of options, it is just what we want to do. Mrs. McGuire asked if we go the route of restoring the wetlands, can we add the berm after? Mr. LeBreton explained you could add the berm later, it is just the feasibility of cost. How much tidal protection does it provide? Mr. LeBreton stated lower homes were moving from a velocity zone to an AE zone. Mr. Zuckerman explained he does not think the council has to make a decision tonight but wanted to read his recommendation. "The council wants to consider multiple strategies to limit the height, scale, and visual impact to the lakefront to encourage the use of underwater structures and technologies, rip rap, and other similar visually low impact strategies with a focus on minimizing the scale and height of any proposed above water structures in the strategy to both restore and protect the wetlands between Sunset Point and Lakeshore Drive." The idea is to provide guidance to consider multiple strategies. Once we change the view of the lakefront with phase 1, phase 2 is right behind it. He wants to explore all possible strategies. Dr. Kreller feels Neel Schaeffer has looked at all the different strategies when they came up with their design. He is confused with the visual impact of the berm. It is in front of the swamp, you have to be on a boat to see the berm from the lake. He thinks Neel Schaeffer has address the rip rap and underwater structures. He reviewed the prior studies, and you cannot protect the wetlands and the Hermitage from flooding if you decrease this under 8 ft. You would get a 20-year protection if the berm was 8 ft. Mr. Zuckerman explained the visual impact is the bridge, concrete, and proposed design. The last design was at how many feet? Ms. Amanda Phillips (Neel Schaeffer) explained the design is at 8 ft. The sea wall is at 5 ½ ft. Sunset point is at a 9ft elevation. The design is to go from the 9 ft at Sunset point, across the berm at 8 ft, and then fell to the natural grade of the seal wall at 5 ½ ft. Mr. Zuckerman stated this is to focus on looking at options and minimizing the visual impact as much as possible. Mr. LaGrange explained we must decide on whether we are restoring wetlands or doing tidal protection. Once a decision is made, they can come up with solutions. Mr. Danielson stated he thought the intent over the past few years was to do both, wetland restoration and tidal protection. Dr. Kreller explained the design from Neel Schaeffer does both. Ms. Amanda Phillips explained in 2012 there was a costal modeling effort where they studied multiple elevations. At this time their focus was: a pedestrian path, targeting the marsh creation and then to make sure if there was overtopping velocities, at what point would you have closure of the pedestrian bridge. If there are changes such as reducing the width, we may have increase wave transmission and overtopping so some of their figures would have to be reanalyzed to make sure they were still protecting the restoration. Mr. Zuckerman asked if this strategy of elevated protection would be used across the rest of the lakefront? Ms. Phillips stated no, the purpose of this project was to

provide restoration to the cypress forest, to add the berm and to get the recreational access from Sunset Point to Lakeshore Drive. Mr. Danielson asked Ms. Phillips to explain the difference between a living shoreline and 2-4-6-8 berm. Ms. Phillips explained living shorelines' primary goal is to trip the wave as it comes ashore to help dissipate the wave energy. When you move beyond a submerged structure, the tripping does not get maximized enough. When you look at 2-4-6-8 elevations you have taken in mind a 2 vs a 20 yr. storm. They looked at a 20 yr. storm and if the wave action is 4 ft, then the topple over is an additional 3.5 ft so that is why they recommended the 8 ft elevation to have that little freeboard. Mr. Danielson stated 8 ft gives tidal protection and marsh creation. They can make adjustment for extras like gates, lights, etc. The goal is what do we want and how do we want to do it. Ms. Phillips stated they just need to know what path to go down. Mr. Zuckerman stated if we start down the path of flood protection by building an elevated structure that becomes phase 1 lake front levee. It stops at Lakeshore Dr. His concern is we are now starting flood protection by building elevated structures, so the next step is raising the structure across the entire lakefront. He wants to encourage the lowest level possible to maintain our current level of protection. Mr. Danielson stated he thinks the council is on the same page. Mr. Zuckerman suggested a study that shows what the structure would look like at different heights. Dr. Kreller feels this is different from any ideas for Lakeshore Dr., he thinks that is two topics. Mr. Zuckerman has heard from previous firms about elevating the wall, living shorelines along the lakeshore. His purpose is if we start in the west end start with a similar strategy for the rest of the lakefront. Mr. Danielson stated if we approve this resolution then the consultant comes back with a few options for us to look at, using the existing data we have. Mr. Zuckerman explained he does not want to move forward without looking at other options. Mr. Burguieres explained this is state property and why are we constructing this here and not on the Green Fund property line. Ms. Phillips explained the city has a state permit and a CEA with the Green Fund which expires at the 2 yr. mark. (March 2024). The Corp permit will expire in June 2024. All permits would have to be renewed. Mr. Rhinehart asked if the 8 ft barrier would work with 5 ft structures on either side, how does it help with rising water? Ms. Phillips stated the current plan is to use a wrap of rip rap around the berm and in the channels. The feature is to move water from the Galvez Canal through and around the berm to help prevent erosion. The west side, sunset point is 9ft, and the east side the wall is 5.5 ft. Mr. Perry asked if we are building flood land protection why do we need a structure? People have used Christmas trees, silt, would that work instead of a floodwall/rock. Ms. Phillips explained this is an earthen berm with rocks on the front. Mr. Perry stated restoration is very different from surge protection; it usually includes pumping and planting. Ms. Phillips stated the project does contain marsh creation and replacement on the back side. With no further comments or questions, a vote was taken, and the resolution passed 4-0.

4. To consider whether to move forward with a request to rezone Parcel D, Mariners Village Subdivision from Planned Residential District to Planned Combined Use District and to establish site development criteria and allowable uses within the District. Under CLURO Art. 4.3.1.2.4, the Council has to make a final yea or nay vote on any proposed Zoning Amendment. A motion was made by Dr. Kreller and seconded by Mr. Danielson. Mr. Danielson explained this is a procedural issue. It does not have anything to do with if the council wants or does not want the project. We have had to do this a few times on other P&Z cases. The purpose is to determine whether or not the council wants to act on the recommendation of the commission. With a favorable vote, we would move forward with the introduction of the ordinance which was supported by the commission with a 4-3 vote. This item does not say the council agrees/disagrees with the ordinance but if they feel it should go forward with a public hearing and eventual final action by the city council. Because there is a vote on this item, public comment is available, as always, but only on the discussion of whether we move forward or not. It is not traffic, trees, height, etc. that will only be discussed at a later date, if the action is approved. With the item above, public comments is not to be discussed if

you are in favor or not of the project or any aspects of the project. Mr. Kevin Vogeltanz asked what happens if the council votes no? Mr. Danielson stated the discussion does not move forward. Mrs. Sconzert stated there would not be a public hearing. She explained in the planning district, there is a process for a zoning change. The language requires the council to first act if there is not an ordinance to go forward. She stated the inconsistency in the CLURO states you shall have a public hearing. The questions is with a 4-3 recommendation, in the past, other cases have gone to the council forward with a public hearing. Mr. Vogeltanz stated the net effect if the council says no with going forward the project cannot procedurally go forward. Mrs. Sconzert stated yes, based upon the way the CLURO was written, but that was not the intent of the drafters. This is her interpretation. Mrs. McGuire is concerned - the council needs to make sure every process is followed and see what happens if this gets appealed and goes to court. This was recommended by the commission, if we shut it down do they have grounds to file suit. Port Marigny went to court and cost the city a lot of money. It is so important that we follow everything. Mrs. Sconzert stated the only reason we are here is because of the two inconsistencies in the CLURO. Ms. Bartholomew stated a recommendation has to be forwarded to the council. How it gets on the agenda is unclear. The planning commission does not submit the ordinance. In the past zoning changes have been generated by the city, then you have, this is an applicant from the developer. Because this is coming from the applicant, they interpret it to go to the council for a yea or nay vote. Mr. Danielson stated this is going to be addressed in the CLURO review, so this does not happen again. Mr. Hall feels there is defect in the process at the P&Z level. He asks to vote no and send back to P&Z and fix what is broken first. Mrs. Sconzert stated there is just an inconsistency in the CLURO that they have been working on for the past 18 months. Mr. Zuckerman stated a vote no is denying them to be heard. Mrs. Sconzert agreed and explained that puts the city in a violation of due process. Mr. Burguieres expressed a defect with the process along with the live oak issue, there is not a hardship. Mr. Danielson stated those issues will be further discussed if this proceeds forward; this is just a procedural issue. Mr. Zuckerman said do we allow the applicant to be heard and the arguments to take place. Mr. Burguieres also stated he is aware an appeal has been filed with this case. Ms. Bartholomew stated they are not discussing that. Mrs. Sconzert explained there is no proper appeal pending, it is premature. Mr. Zuckerman asked if there was an appeal, how does that impact us? Ms. Bartholomew stated you were given a recommendation, an appeal will go forward to the council if we get there. Mr. Peret stated the council should not vote because they are afraid to be sued; they will get sued either way. Ms. Clark asked the council to vote on what is right and with their hearts. Mr. Rosenow requested for the council to allow public comment for whatever side you are on. If there is an appeal, it would follow the legal process. Mr. Zuckerman stated we cannot hear all sides unless we allow this to move forward. Ms. Todd stated many things on the P&Z agenda were a pop up. How will this work with the Council. Mr. Danielson stated we advertise the agenda and, in this case, we had to publish for 3 weeks. If this passes, the council will discuss their next steps. A resident asked not to move forward without looking at all aspects. Send this back to P&Z and get it right. Mrs. McGuire stated several residents have asked why it cannot go back to P&Z? If the council accepts the continuance, then they can choose to send it back to P&Z. Ms. Todd asked to consider the future generations, she likes the quaint quiet town, not so commercial. Ms. Lisa Marie stated affidavits will be noticed and remanding bonds. Mrs. Rohrbough asked if this gets a no vote, can it come back. Ms. Bartholomew explained she feels the council is obligated to hear this case out. Mr. Zuckerman is having a hard time denying the applicant to be heard. Mrs. Bush agreed we are dealing with someone's property rights, we need some finality. They can always come back and reapply. Mr. Vogeltanz stated not all cases were heard by the Council, as stated by Mrs. Sconzert. He thinks it should be noted that the P&Z commission cast a 4-3 vote. Mr. Fairley has already resigned, and Mr. Adams is soon off the commission and they both voted for the project. He feels something is weird, because if you now send it back, you will have 2 new commissioners. He feels you should vote no, get 2 new commissioners, and revote. Mr. Danielson

clarified, only one commissioner has resigned, a second, Nixon Adams, term expires end of August. Both of them have served the commission honorably. Mr. Zuckerman stated there was a 4-3 vote in favor, but if the recommendation was negative, he feels the applicant still deserves a discussion. Dr. Kreller called the question; seconded by Mr. Zuckerman. With no further comments or questions, a vote was taken, process to move forward passed 5-0.

5. Introduction of Ordinance 23-16: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE WITH RESPECT TO PARCEL D, MARINERS VILLAGE SECTION 46, T-8-S, R-11-E, GREENSBURG LAND DISTRICT, CITY OF MANDEVILLE, ST. TAMMANY PARISH, LOUISIANA, MORE PARTICULARLY DESCRIBED ON THE LEGAL DESCRIPTION PREPARED BY KELLY J. MCHUGH & ASSOCIATES, INC., CIVIL ENGINEERS & LAND SURVEYORS, DATED 08/04/95, CONTAINING 15.012 ACRES; CONDITIONALLY APPROVING THE SITE PLAN FOR SUCETTE HARBOR, PREPARED BY TRAPOLIN-PEER ARCHITECTS (SHORELINE, HOTEL & EVENT SPACE), ARRIVE ARCHITECTURE GROUP (INDEPENDENT LIVING BUILDINGS), WITH URBAN AND LANDSCAPE SITE PLANNING FROM DESIGN WORKSHOP; REQUIRING THAT THE SUBJECT PROPERTY BE ZONED PLANNED COMBINED USE DISTRICT ("PCUD"); GRANTING A CONDITIONAL USE PERMIT FOR THE DEVELOPMENT OF THE ENTIRE SITE; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

A motion was made by Mrs. McGuire and seconded by Mrs. Bush. Mr. Danielson stated this will be discussed at the next meeting. The first discussion will be held in 2 weeks. Mr. Danielson explained the following will be discussed: Overview of what a planned combined use district zoning development classification is and what it means. The responsibility of this council. What are we reviewing and what we will eventually be voting on? What is the legal aspect of this process? What is a brief history of the property, go through the application and the ordinance as it has been presented? We will also have a presentation from the applicant. Mr. Danielson stated this is what will be discussed at the first meeting. We do not know how long it will take. Questions and comments can be sent to any council member. The advertisement was done, we introduced it tonight and will discuss at the next meeting. Having the meeting at the community center will be decided in advance. This will be part of a regularly scheduled Council meeting. What has to be advertised is what is to be discussed at the meeting.

6. Introduction of Ordinance No. 23-17; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE AMENDING ORDINANCE 22-11 AND REVISING THE PERSONNEL POLICIES RULE 4.0, SECTION 4.04(A) FOR THE MUNICIPAL EMPLOYEES' CIVIL SERVICE SYSTEM, AND ITS EMPLOYEE RULES AND REGULATIONS AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH A motion was made by Mrs. McGuire and seconded by Mrs. Bush. Mr. Danielson stated this will be discussed at the next meeting.

**PUBLIC COMMENT:**

Mr. Ellender stated where the appeal process can be found. Mr. Peret asked the council to fix the CLURO, so we do not have another issue like this tonight.

**PROJECTS IN PROGRESS REPORT:**

Mr. LeGrange reviewed the status of the ongoing projects with the city.

Mr. Zuckerman made a motion to adjourn the meeting for 5 minutes and then take up the appeal hearing cases, seconded by Mr. Danielson. With all council members in favor of a short recess, Mr. Danielson adjourned the meeting at 8:55 p.m.

**Mr. Danielson called the meeting back to order at 9:10pm.**

**HISTORIC DISTRICT APPEAL HEARING:**

1.HC 23-04-23 – 2028 Monroe Street

Appeal hearing regarding the decision by the Historic Preservation District Commission to conditionally approve the porch rail detail on a significant structure

2.HC 23-04-24 – 2028 Monroe Street

Appeal hearing regarding the decision by the Historic Preservation District Commission to conditionally approve the window material on a significant structure

Mr. Danielson asked Ms. Kirk if she wanted to discuss the items separately or together. They will vote separately. Ms. Kirk was ok discussing both items at once. Mr. Danielson stated there is no public comment allowed on the appeal process. The HDC and Ms. Kirk will have equal time to present and discuss their case.

Mr. Zuckerman stated due to the recent lawsuit at the 22<sup>nd</sup> judicial court and the storm of social media commentary and criticism lodged against him by the appellant and others and his role in the appeal both personally and professionally. He thought it would be prudent to consult the city attorney to determine whether a recusal would be appropriate. To be clear his participation in the hearings on this matter outlined in RS 42:1120 there are no grounds for mandatory recusal. Additionally, he wants to make very clear that any vote he casts during this proceeding are by no means are a response of the lawsuit or facts that allegations made therein or the negative commentary on social media filed by both the appellant and others. He remains confident he can conduct himself in a fair and impartial manner, and accordingly he will not be recusing himself.

Mrs. McGuire explained she is recusing herself from this appeal because at the last meeting there were some personal projects brought up in the discussions and she wants to make sure the integrity of the vote was protected. She recused herself then and she wants to remain consistent, therefore she is recusing herself. She does believe she can be fair and impartial but since the first one did go to the 22<sup>nd</sup> judicial, she wants to make sure this vote is pure and there would be no questions.

Mr. Zuckerman and Mrs. McGuire's statements apply to both cases.

Ms. Bartholomew gave a broad introduction of each case and discussed the right of the applicant to appeal the decision of the commission. The role of the council is to hear an appeal of a HDC decision and whether their decision was arbitrary and capricious in the process. The council's role is not to determine whether they agree or disagree with the applicant's request. Ms. Bartholomew discussed the HDC process. The applicant submitted work to be done on a significant structure on the HD survey. They are requesting changes to the railing and window replacement. There are different standards for preservation and rehabilitation. The first request was for a railing on the structure. There were 2 options submitted to the commission and design review. The commission approved option #2 which they felt was more compatible with the structure due to the simplicity of the design. Along with the condition that the balusters should align with the center of the handrail. The commission's vote was 5-0. Dr. Kreller asked for clarification regarding Mr. Zuckerman's statement. Was he present at the design review on 4/13 or HD commission meeting on 4/20? Mr. Zuckerman stated he did not participate or comment on this case at either date.

Ms. Bartholomew discussed the window replacement appeal. The applicant submitted a design with shadowing and details of the window. The commission complemented the applicant on their



submittal drawing. The commission unanimously voted to approve the request, with the condition that the material of the windows and trim be wood.

Mr. Zuckerman asked what was approved on the railing. Ms. Bartholomew explained they approved the railing design and spacing but not how it was attached.

Ms. Kirk explained after the zoom meeting they received favorable review, and no changes were mentioned. Regarding the railing, they received comments about the spacing which they revised and prepared for the commission meeting. When they got to the HDC they were praised for all their details and work. They the commission decided they did not like what was submitted, after receiving no negative comments from design review. They attempted to show where they got their details from but were shut down. They appealed because they felt they were being treated differently. Mr. Sollberger sent through Lauren pictures for references for them to use. He feels they have moving targets. Several pictures they were given to use as a reference have the same items they are requesting and have been rejected. Dr. Kreller wanted to confirm at 219 Lafitte and 2030 Jefferson , all have Hardi. Also, 2032 Jefferson has vinyl windows with Hardi trim. Mr. William Barry, HDC member, discussed the reasons for the decision of the Historic Commission. The commission felt the railing being proposed was not consistent with a building of that period. This is a significant building and its hard to make judgements on appropriateness, but they have to use the guidelines presented and follow them consistently. Every case must be judged individually on their own merits. Design Review gives suggestions but the real review on appropriateness happens at the commission meeting.

Dr. Kreller stated 2032 Jefferson has a railing that looks almost identical to what was rejected. Mr. Barry is not familiar with the material that was provided. It also has Hardi. It seems like consistency was not followed. Mrs. Sconzert stated the merits of Hardi board is not before the council. The council is the reviewing body charged with determining whether the commission complied with their essential duties.

Ms. Bartholomew stated when you look at the cases and the detail of the buildings you have to see what has determined it to be architecturally significant. Those aspects along with the guidelines state materials need to be replaced with in kind materials. The commission considered these guidelines when making their decision.

Ms. Kirk hopes people have watched the video because she was shut down when discussing the similarity with other homes. She was shut down by a member of the commission and Ms. Bartholomew. They do not debate the process, but they have been treated differently. There are unreasonable details with no consideration to budget. Using like materials as stated in the guidelines is acceptable, but not in this case. If the process is working then why did the review not go well when they made the changes requested by the design commission. Mrs. Bush stated the commission is not defined by the design review process; they are not the decision makers. The questions were asked if you don't follow the rules what happens? Mrs. Sconzert explained the commission is developed under state law and the law provides the commission with enforcement regulations. They can compel the applicant to make the changes and the judgement would go against the property.

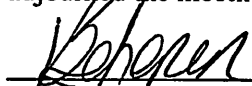
Mr. Danielson wanted to review the council's role again. Mrs. Sconzert stated the law is 25746 and it asks the council to decide if the commission followed their essential duties.

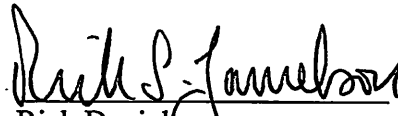
With no further comments or questions, a vote was taken, the vote to affirm the HDC decision for the Porch Rail Detail was affirmed 3-1 (Kreller vote to overturn)

With no further comments or questions, a vote was taken, the vote to affirm the HDC decision for the window materials was affirmed 3-1 (Kreller vote to overturn)

**ADJOURNMENT:**

Mr. Zuckerman made a motion to adjourn the meeting, seconded by Mrs. Bush. Mr. Danielson adjourned the meeting at 10:20 p.m.

  
\_\_\_\_\_  
Kristine Scherer  
Council Clerk

  
\_\_\_\_\_  
Rick Danielson  
Council Chairman