**October 24, 2019**

**5:00 P.M.**

**Noticed Meeting Minutes**

**Noticed Meeting CM Joyce Morgan and CM Brenda Priestly Jackson RE Possible Regulations of Certain Simulated Gambling Establishments**

Monday, October 7, 2019 2:00 P.M.

**Topic:** Possible Regulations of Certain Simulated Gambling Establishments: Bill 2019- 644

**Location:** City Hall, City Council Conference Room A 117 West Duval Street Jacksonville, Florida 32202

**Attendance:** Council Member Joyce Morgan (District 1), Council Member Brenda Priestly Jackson (District 10), Council LeAnna Cumber (District 5), Council Member Randy White (District 12) Atty. Shannon Eller (Office of General Counsel) Tristan Denmark ECA At-Large Group 3, Kendra Mervin ECA District 10, Rachel Lockhart Mayors Office, Kelly Mathis Triad Venture, Ryan Strickland Triad Venture.

\*Please see sign-in sheet for a complete list of attendees

**Council Member Joyce Morgan:** CM Morgan opened the meeting and asked everyone to introduce themselves. CM Morgan also thanked everyone for taking time to attend the meeting. CM Morgan went on to describe the importance of this legislation and stated that this council could not get this wrong; she stated that too much is riding on this legislation, from public safety to jobs. CM Morgan stated that it is important that we cover everything to make sure that we aren’t missing anything. CM Morgan also thought it was important that we hear both sides, to ask questions and receive feedback.

**Council Member Brenda Priestly Jackson**: CM Priestly Jackson stated that her primary concern is that the prior council passed legislation regarding this matter in May of 2019. That ruling gave businesses a 6 month period allowing them to remain open during a period that began this past August, and is scheduled to end this coming February 2020. CM Priestly Jackson stated the first question she has deals with the basis of the ruling dealing with the “public nuisance component?”

**Shannon Eller** –Atty. Eller stated that the legislation passed by the last council was based on the fact, that it was decided that the internet gaming facilities were a “public nuisance”.

**Council Member Brenda Priestly Jackson –** CM Priestly Jacksonnext asked Atty. Eller which statute or ordinance in the City of Jacksonville Charter did the “public nuisance component” of the legislation site?

**Shannon Eller** – Atty. Eller stated that the legislation was not based on a particular ordinance or statute rather; it was based on the findings of the previous council that the establishments were considered a “public nuisance”. Atty. Eller went on to state that there was no statutory reference confirming the public nuisance.

**Council Member Brenda Priestly Jackson –** CM Priestly Jackson next asked if the public policy, and public nuisance items were two separate factors that were used in the legislation, or were they used as two individual factors together. CM Priestly Jackson also asked for further clarification regarding the pervious council’s ruling that their finding wasn’t based on any state or local statute, and was based primarily upon a policy argument rather than and statutory argument.

**Shannon Eller** – Atty. Eller stated that she didn’t know if there were any statutory definitions used for the finding of a “public nuisance” used by the previous council.

**Council Member Brenda Priestly Jackson** – CM Priestly Jackson stated that as a new member of City Council, she is a bit hesitant to second guess a decision made by the previous council just a couple of months prior. CM Priestly Jackson next asked Atty. Eller what intervening factors have arisen since May that have led to Ms. Cumber’s legislation 2019-644? CM Priestly Jackson asked CM Cumber to explain what the extenuating circumstances were that led to her filing of this legislation that would instigate the closure of these establishments immediately versus the February date established by the prior council.

**Council Member LeAnna Cumber** - CM Cumber stated that impetus for her bill was that the previous City Council voted on May 28th 17-0 in favor of all arcade/simulated businesses in question being shut down. CM Cumber also stated that it was her understanding, that there is currently lobbying by the arcade/simulated gambling business owners to have flexibility given in the hope of the new council allowing regulation of their facilities. CM Cumber also stated that the intervening factors for her bill included the fact that in August a security guard was killed in an arcade, and the fact that these businesses continue to seriously harm other Jacksonville businesses. CM Cumber stated that when looking over COUs (Certificates of Use) she continued to see a number of businesses operating out of compliance, and during the COU process the city has no way of determining through the current COU process if the machines are in fact legal machines. CM Cumber went on to state that the machines were made illegal in 2013, and legislation was signed by Governor Rick Scott that invalided two regulating laws that were currently on the books during that time. CM Cumber went on to speak about the timing of the shout down date, stating that former CM Gulliford tried to do it in ten days and received nine votes, which wasn’t enough to move his legislation at that time. Former CM Crescimbeni offered six months, which is what ultimately passed. CM Cumber stated that, if she would have been on Council during that time, she would have been in the Gulliford camp. “If something is a nuisance, if something is deemed illegal by the state, deemed a nuisance by the city then there is no reason to keep them open, there is no rational reason for it.” She finished by stated that the businesses here are not currently winding down their operations, and that is evident by the lawsuit that has been filed in order to remain open and to be regulated.

**Council Member LeAnna Cumber** – CM Cumber stated that she believed that there is no reason to wait, and believes that the closure of these businesses should begin immediately. Regulation would be in direct opposition to the previous councils ruling that the operations should be stopped, and arguments given by the arcade owners aren’t valid. “We would not allow a business that was found to be operating, or selling illegal criminal services six months to operate, giving them time to operate.” CM Cumber finished by stating that many surrounding counties have already shut down operations of internet cafés, which another reason why they keep popping up over Duval County, other counties have taken the stance that they are not putting up with it.

**Council Member Brenda Priestly Jackson** – Council Member Priestly Jackson thanked CM Cumber for sharing her concerns, and shared that she did not plan on reviewing the decision of the previous council in May. She stated that she did not believe that there was a valid reason for her to second-guess the decision of the pervious council. CM Priestly Jackson stated that she is a stickler for “Due Process Consideration” and that the six months versus ten-day consideration for closure was thoroughly vetted by the council. What troubled her was that this legislation goes back and second-guesses the work done by the previous council. CM Priestly Jackson also stated that the death that occurred at the arcade in August, which was in “District 10”, was tragic but is unsure if one death supersedes the work completed by the Council. Furthermore, it is her understanding that the policy of the previous council was not based on a legal statue involving illegal gambling/gaming, rather was based upon a policy definition that it was a nuisance. She went on to say that she did not believe that the City of Jacksonville could offer a COU to a business that is operating a criminal or illegal enterprise.

**Council Member LeAnna Cumber** – CM Cumber added that the idea that many of the businesses aren’t operating in good faith because in many occasions they lock entrance doors which is in direct violation of fire codes. Furthermore, CM Cumber stated that many individuals have noted during public comment at Council Meetings that individuals stated they would be affected by the closures because they would now have to travel to Tampa to gamble, which is a direct contradiction to the argument business owners are making.

**Council Member Brenda Priestly Jackson –** CM Priestly Jacksonbrought up the regulatory items that already are put in place. She spoke about Occupational License and the Certificate of Use. She went on to state that according to the legislation, they are not closing down establishments because of illegal gambling, but because of a public nuisance component. She sated that she was troubled because it seems as though we are second guessing the decision of the previous council, and not providing the public with adequate notice of changing a policy directive that that council made. CM Priestly Jackson stated that she is also troubled by the effect that this legislation to going to have on workers if passed, many of whom have shared histories of not having stable employment. “Many of these workers have enjoyed the dignity of having stable employment, and I would assume that these workers are getting ready and preparing for the February stop date, an immediate stop date would be problematic to many of these families.” She ended stating that she also is uncomfortable telling senior citizens what, and how to spend their money, “that’s not for me to decide, if they are engaged in a lawful activity.” She also mentioned that murder of the individual at the arcade was tragic, and when speaking with the Sheriff about the safety of these establishments, he stated, “They are no more, or no less dangerous than any other establishment that operates that may draw questionable folks.”

**Council Member Joyce Morgan** – CM Morgan mentioned to CM Cumber about the economic impact that the closures of these businesses might have if closed, she stated that she has spoken to individuals who stated to her they are in fact preparing for the February closure date. “We know that upward to 1,800 to 2,700 individuals could lose their jobs.” She stated that she didn’t know of a shut down locally that would affect this many people.

**Council Member LeAnna Cumber** – CM Cumber gave CSX, as an example, and stated that people loose their jobs all the time. CM Cumber sated that this past weekend a local company laid off approximately 100 high paying salary jobs. She stated with the closure of the Landing there was the loss of jobs by many of the wait staff, and many other businesses had to close because they couldn’t afford rent in other shopping centers. She went on to say that all this legislation does is move up the date that the previous council already established. CM Cumber stated that her legislation prohibited illegal machines, but did not prohibit legal arcade machines. She also stated furthermore, it has been noted that the types of machines in question are supposed to be “secondary means of income”, not the primary means of a business’s operation, therefore owners of establishments still will be able to operate businesses, just without the machines that have been determined as a nuisance. CM Cumber stated that many of the businesses that will be closed aren’t Jacksonville businesses, many of the owners of these businesses aren’t locally owned, and the money collected from the operation of these businesses, isn’t always staying in Jacksonville, many times going to South Florida, and other places. CM Cumber noted that it should be accounted that the operation of these businesses hurt many businesses that are locally owned. I don’t think that giving businesses a few more months is going to help. She also stated that she wanted to clarify that she didn’t mean to say that the workers weren’t preparing for the upcoming shutdown, that the business owners themselves were not preparing.

**Council Member Joyce Morgan** – CM Morgan disagreed stating that CSX is a little different than the City Council, she stated that if CSX decides to layoff personnel, “they are essentially doing the layoffs, and in this situation we will be doing the layoffs.” “I am not the employer, we are legislators, for us to do it is totally different that a company.” CM Morgan stated the previous council looked at all facets of this situation, and looked at the possibility of individuals who might get put out of work.

**Council Member Brenda Priestly Jackson –** CM Priestly Jackson stated that it didn’t matter to her if the internet gaming was a primary or secondary source of income as long as it is legal. She reiterated that many of the individuals who will lose their jobs, “in many cases don’t bounce back.” She stated that she isn’t concerned about the business owners, but is more concerned about the employees, who in many cases live paycheck to pay check.

**Robin Rukab** – Robin Rukab stated that she believes that this legislation will put many individuals out of business immediately, and will affect many people. She stated that she does not understand why CM Cumber is not open to the idea of regulation?

**Kelly Irwin** – Stated that when you go and jump through the hoops of obtaining a certificate of use, nowhere in the documentation does it talk about a primary or secondary source of income. She also stated that people who are affected by this, will not be able to afford to fight this legislation to keep their jobs.

**Council Member Joyce Morgan** – CM Morgan asked Atty. Eller to talk about the law pertaining to simulated gambling machines under governor Rick Scott.

**Shannon Eller** – Atty. Eller stated that it simply was legislation made by the State of Florida that made machines with a payout illegal. Those machines should not currently be in businesses.

**Kelly Mathis** – Atty. Mathis wanted to clarify that gambling is currently illegal in Florida, with a few exceptions including jai alai, poker rooms, sweepstakes, drawing by chance, 50/50 drawings, as well as arcade and skill games. What is important to note, is that there was a change, and that change but did not change the skill games law. The issue of the legality is that it does not reside with the legislature, but instead resides with law enforcement. To say that they were made illegal by the law in 2015 applied to the skill arcade games at Dave and Busters, it didn’t apply to the other games. In 2010 former Council Member Kevin Hyde introduced a bill to ban these types of arcade machines, council during that time decided to regulate these games instead of banning the machines. When the legislation passed it was considered the most stringent regulation on gaming machines in the state. Atty. Mathis stated that things during this time were great; however in 2015 the office of general council decided that those regulations did not apply anymore. The City of Jacksonville decided to stop enforcing regulations, and when you have a blank slate with no regulations things “got of hand”, and that’s how we arrived to where we are today. Atty. Mathis also stated that the 6 month time frame did have legal significance as the “amortization period” which is common in eminent domain law.

**Council Member Joyce Morgan** – CM Morgan stated that based on the information given by Atty. Mathis, she would like Atty. Teal to further address the Florida House Bill of 2015. She stated that there appears to be a big disconnect on what they intended to do. She also stated that when CM Ferraro introduced 2019-209, he originally intended it to be 18 months, and on the floor the council night it was approved it was approved with a time of 6 months. She stated that we weren’t at a 6 month time period from the beginning. CM Morgan stated that we are a Council of our word, this was the bill, we all agreed to that, I just can’t go back on our word from what we approved just a few months ago. My constituents we upset because they (arcades) kept popping up and we had no way of controlling or regulating the businesses. How we move forward tomorrow, is a big questions mark, I would like to defer, because I cannot vote positively on this current bill.

**Council Member Brenda Priestly Jackson –** CM Priestly Jackson stated that as a new comer she is very uncomfortable changing the ruling of the previous council especially with a ruling is based upon a policy determination, and not a statutory determination. I think this establishes a dangerous precedent for the future.

**Council Member Randy White** - CM White stated that he supported the 18 months, and will stay with the 6 months, to give the folks affected more time to do the things that they will need to do.

**Council Member Joyce Morgan** – CM Morgan asked what are people going to do if this is passed tomorrow? What are the employees going to do if businesses are shut down tomorrow? Council Member Morgan stated that the City of Jacksonville, if this legislation is passed will be responsible for some of the resulting factors that will result from the passage of this legislation including blight.

**Council Member Brenda Priestly Jackson –** CM Priestly Jackson wanted to say one final point, that dealt with the unfortunate shooting at a local high school that resulted in high schools playing football games on Saturdays. She stated that the community however ended up reversing their decision because they were so accustomed to having games played on Friday nights. The point that she wanted to make with the comment was that you cannot make significant changes to life based upon one unfortunate event, especially if it is an issue based on policy, not on upon statute.

**Council Member Joyce Morgan** – CM Morgan thanked everyone in attendance, and closed the meeting.

**Meeting Adjourned: 2:03 PM**

**Minutes:** Minutes completed by Chester Aikens II, ECA District 1.

***\*The written minutes for this meeting are only an overview of what was discussed. For verbatim comments of this meeting, please listen to the audio recording.***

The following items have been submitted for public record. Please contact legislative services for these items: 1. Meeting Notice 2. Meeting Minutes 3. Audio CD 4. Meeting Sign-In Sheet

cc:

 Council Members/Staff

 Cheryl L Brown, Director/Council Secretary

 Carol Owens, Chief, Legislative Services

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 Office of General Counsel

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