



MINUTES
REGULAR CITY COUNCIL MEETING
MARCH 1, 1999 AT 7:00 P.M.
CITY HALL, 116 FIRST STREET
NEPTUNE BEACH, FLORIDA

Pursuant to proper notice a Regular Meeting of the City Council of the City of Neptune Beach was held March 1, 1999, at 7:00 p.m., in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida.

Attendance

IN ATTENDANCE:

Mayor George F. Vaughn, Jr.
Vice Mayor Thomas A. Tankersley
Councilor Edward S. Jones
Councilor Robert D. Shimp
City Clerk Becky E. Hanks, CMC/AE
City Manager Richard A. Linn
City Attorney Christopher A. White
Director of Finance John Herbst
Building Official Dan Arlington
Administrative Assistant Lisa Volpe

ABSENT:

Councilor Ronald D. Patronik

Order Call/Pledge

The Mayor called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

AWARDS AND PRESENTATIONS – NONE

APPROVAL OF MINUTES

Approval of Minutes

Moved by Tankersley, seconded by Jones.

Motion: **TO APPROVE THE FEBRUARY 1, 1999 REGULAR MEETING MINUTES.**

Roll Call Vote:

Ayes: 4 - Jones, Shimp, Tankersley, Vaughn
Noes: 0
Absent: 1 - Patronik

MOTION CARRIED.

COMMUNICATIONS AND CORRESPONDENCE

Interlocal Agm
Govt. Services

INTERLOCAL AGREEMENT FOR GOVERNMENTAL SERVICES: The Mayor recognized and gave the privilege of the floor to Jacksonville Councilwoman Ginger Soud who presented a check in the amount of \$30,300 for partial payment from the City of Jacksonville, as outlined in the Interlocal Agreement for Governmental Services. The funds were designated for beautification and maintenance of the Florida Boulevard and

Penman Road area.

Rearrange Agenda REARRANGE AGENDA ITEMS: At the recommendation of Vice Mayor Tankersley, and concurrence of Council, Agenda Items 12E and 12H were moved to follow 12B.

CITY MANAGER REPORTS

Hopkins Creek Outfall HOPKINS CREEK OUTFALL DRAINAGE STUDY: The City Manager announced there would be a county public hearing on March 2, 1999 regarding the Hopkins Creek Outfall Drainage Study. In preparation for the hearing, design consultants for the projects gave a short presentation to Council.

Alt. Entrance Seagate Forest ALTERNATE ENTRANCE TO SEAGATE FOREST SUBDIVISION: Per Mr. Linn, the view of the City Manager of the City of Jacksonville Beach remained the same; that there would be no alternate entrance from the city limits of Jacksonville Beach, at this time, for Jacksonville Beach residents in the Seagate Forest area.

A sixteen unit residential development was slated for approval by the Jacksonville Beach Planning Board, and construction by a private developer, without consideration of the impact these homes will have in Neptune Beach.

The City Manager announced that Building Official Dan Arlington would be attending the Jacksonville Beach Planning Board Meeting on March 8th to voice the impact concerns of Neptune Beach.

COMMENTS FROM THE PUBLIC

Donna Jimenez, 3 Sandra Drive, Jacksonville Beach, complained about safety of the children, the increasing crime at Fletcher High School, and the treatment she and her son received from the Neptune Beach Resource Officer assigned to the school.

Deborah McAlister, 1103 - 18th Avenue North, Jacksonville Beach, complained about the safety of children at the schools and the School Resource Officer.

Richard Fail, 510 Oak Street, complained about the treatment by Council, at the last Council Meeting, of Community Events Special Committee Chairperson Beth Tyler; and stated that he knew an architect that would design restrooms in Jarboe Park for the City at no charge.

Reuben P. Groom, 2016 Marye Brant Loop North, favored and encouraged Council to construct restroom in Jarboe Park.

CONSENT AGENDA

Free Water Usage RESOLUTION 99-08: RESOLUTION FOR WATER USAGE FOR MAINTAINING PUBLIC AREAS OF THE CITY OF NEPTUNE BEACH, FLORIDA.

WHEREAS, the City of Neptune Beach maintains public areas for the benefit of the residents; and

WHEREAS, various individuals and groups have volunteered to provide labor and materials to landscape these areas and generally enhance their appearance; and

WHEREAS, the maintenance of the landscaping of these

common areas require irrigation and the City Council deems it in the public interest to provide the necessary water for irrigation in a uniform manner so as not to be a financial deterrent to volunteers.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

SECTION 1. The City of Neptune Beach will provide a water meter to volunteers without charge for use of irrigation of common areas.

SECTION 2. The City will credit to the individual an amount equal to 20,000 gallons per each 1,000 square feet per month.

SECTION 3. The City of Neptune Beach will transfer annually an amount from the general fund to the utility fund to cover the cost of this program.

Bay St Sewer Repairs GRUHN MAY, INC., BAY STREET SEWER REPAIRS: Declared an emergency, waived formal bid procedures and approved a contract with Gruhn May, Inc., for sewer line repairs on Bay Street in an amount not to exceed \$22,500.

JEA Water Supply JEA WATER SUPPLY: Approved a statement of support and interest in future connection to JEA Water Supply for utilization during emergency situations only.

PawnShops RESOLUTION 99-05, STATE LEGISLATION - PAWNSHOPS: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, IN SUPPORT OF A REQUEST FOR THE STATE LEGISLATURE TO ENACT NEW LAWS REGULATING PAWNBROKERS.

WHEREAS, the pawnbrokers / second hand dealers within the State of Florida have expanded rapidly over the last few years; and

WHEREAS, the State Legislature enacted State Statute 539 regulating pawnbrokers on a statewide basis under the Florida Department of Agriculture and Consumer Services; and

WHEREAS, in Florida Statute 539; the State superceded all previous local laws and restricted the ability of local governments to enact new laws pertaining to pawnbrokers; and

WHEREAS, pawnbrokers knowingly or unknowingly deal in stolen property; and

WHEREAS, it has been found that invariably pawnbrokers provide incorrect and inaccurate records on transactions; and

WHEREAS, to reduce crime, arrest criminals, keep updated records and assist victims in recovering stolen items; an amendment to Florida Statute 539 is necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:

SECTION 1. The City Council of the City of Neptune Beach, Florida hereby supports a request for the State legislature to enact new laws regulating pawnbrokers with the following recommendations.

SECTION 2. The City Council supports the following issues regarding Florida Statute 539:

- (A) Restoring property rights to victims. (Changes in the Statute allowing for easier recovery of stolen property by victims. The Statute makes recovery of stolen property difficult, time consuming and expensive for the victims. The Statute should be changed to give victims back the rights to their stolen property).
- (B) Removing conflicting provisions in Florida Statute 539.001. (Existing Florida Statute states in part that ... "any county or municipality may enact ordinances that are in compliance with, but not more restrictive than this section" ... This should be changed so that counties and municipalities can enact more restrictive laws if deemed necessary).
- (C) Provide criminal penalties for repeated record keeping violations. (Many pawnbrokers have repeatedly provided incorrect information on transactions to law enforcement. This statutory amendment will provide for a felony charge for pawnbrokers who have been convicted three times for knowingly providing false information).

Bay St Ditch Cleaning
Lake Neptune

VORTEX BIOLOGICAL SERVICES, INC. - DITCH AND LAKE CLEANING: Declared an emergency, waived formal bid procedures and approved a contract with Vortex Biological Services, Inc., in an amount not to exceed \$25,000, for cleaning of Bay Street Ditch System and Lake Neptune.

Moved by Tankersley, seconded by Shimp.

Motion: **TO APPROVE ALL ABOVE NOTED ITEMS ON THE CONSENT AGENDA.**

Roll Call Vote:

Ayes: 4 – Jones, Shimp, Tankersley, Vaughn
Noes: 0
Absent: 1 - Patronik

MOTION CARRIED.

VARIANCES

Morehead Variance
Appeal

VARIANCE APPEAL - RICHARD MOREHEAD: Appeal by Richard Morehead to the City Council on the final decision of the Board of Appeals on Variance Application V99-2, 900 First Street, for a variance of 15 feet to the corner side yard leaving 0 feet in lieu of the required 15 feet.

Legal Opinion by City Attorney - Procedural Matters. Mr. White stated that this issue was before the Council tonight under its review authority under the new ordinance that was adopted at the end of last year relating to the procedures to be followed for variances. After review of documents presented in the agenda packet, it was discovered that the Board of Appeals, in making their Required Findings under Section 27-147 Ordinance Code, was utilizing language and factors contained in the old code and not the new version. The City Attorney rendered a legal opinion that, due to this denial of procedural

due process and a lack of competent substantial evidence to support the Board's decision based in the new code, the case should be sent back to the Board of Appeals for a new Public Hearing. Mr. White rendered a legal opinion that the Morehead Variance should be referred back to the Board of Appeals for a new Public Hearing complying with the code, addressing those factors that have to be addressed under the new Code.

Discussion ensued as to whether or not Mr. Morehead should address the Council protesting the return of his case to the Board.

On the Record Councilor Shimp stated, on the record, that the Council giving away the powers of the City to boards was shortchanging the citizens. He further stated that the seated Council members were the ones the citizens voted to put in office and, therefore, are responsible to the citizens. Boards are not responsible to the citizens.

Legal Opinion by City Attorney - Privilege of floor to Mr. Morehead: In response to a request by Councilors Jones and Shimp, Mr. White rendered a legal opinion that Mr. Morehead could have the privilege of the floor to address the merits of having Council hear the case this evening. However, there could be no discussion on the appeal review of the case.

Consensus: **ALLOW RICHARD MOREHEAD THE PRIVILEGE OF THE FLOOR TO SPEAK ONLY ON PROCEDURAL DUE PROCESS MATTERS.**

Statement by Richard Morehead: Mr. Morehead alleged that, according to Section 27-153, Procedure for Appeal, adopted October 5, 1999 Council did not have the right, by their own Code, to send his case back to the Board of Appeals. He contended that Council only had the right to affirm, modify or reverse the decision of the Board.

Legal Opinion by City Attorney - lack of procedural due process: Mr. White respectfully disagreed with Mr. Morehead's opinion. He continued that the law does allow Council to send the case back to the Board of Appeals, because the Board did not comply with procedural due process. At this time, if Council approves the decision of the Board, then Council would be approving action taken by a Board that was done procedurally improperly. This Council cannot condone improper procedures. He recommended Council send the case back to the Board.

Moved by Jones, seconded by Tankersley

Motion: **VARIANCE CASE OF RICHARD MOREHEAD SHALL BE SENT BACK TO BOARD OF APPEALS TO MODIFY AND EVALUATE REQUIRED FINDING NOS. 1 THROUGH 7, EXCEPT NO. 4, AS OUTLINED IN THE NEW CODE SECTION 27-147.**

Roll Call Vote:

Ayes: 4 – Jones, Shimp, Tankersley, Vaughn

Noes: 0

Absent: 1 - Patronik

MOTION CARRIED.

Consensus: **THE BOARD OF APPEALS SHALL GIVE THE REASON AND HOW IT RELATES TO EACH POSITIVE AND NEGATIVE FINDING REQUIRED BY SECTION 27-147, ORDINANCE CODE.**

Consensus: **THE CITY SHALL WAIVE ANY ADDITIONAL FEES FOR RICHARD MOREHEAD'S RE-APPEARANCE BEFORE THE BOARD OF**

APPEALS.

Recess / Reconvene **RECESS AND RECONVENE:** The Mayor recessed the meeting at 8:20 p.m. and reconvened at 8:29 p.m.

ORDINANCES - NONE.**OLD BUSINESS**

Town Center Streetscape Project **TOWN CENTER STREETScape PROJECT:** Mayor Vaughn stated that the latest version of the Town Center Streetscape Project Phase III, including revisions to add two dedicated taxi cab stands on the south side of Atlantic Boulevard just north of the Neptune Mall, and a doublewide driveway coming off Atlantic Boulevard into the Neptune Mall. City Manager Linn stated the Neptune Mall owners, also, requested rounding the radius off at the second entrance off Second Street and add pedestrian walkways to parking spaces.

Consensus: **FORWARD TO THE MARCH 15, 1999 WORKSHOP, DISCUSSION WITH THE DIRECTOR OF FINANCE ON REVENUE GENERATION ASSOCIATED WITH THE CENTRAL BUSINESS DISTRICT.**

Ad Hoc Community Center Committee **AD HOC COMMUNITY CENTER COMMITTEE REPORT:** Chairperson Bruce Rehmer presented a written report to Council on the survey of having a Neptune Beach Community Center. The response to the survey was an overwhelming positive to have a Community Center. As a result of the survey and investigation by the Committee, the Fraternal Order of Police Lodge was recommended as the most feasible at no cost to the City. A final report to Council will be completed in May.

CEB Appt. **RESOLUTION 99-06: APPOINTING RICHARD KEENE AS AN ALTERNATE MEMBER TO THE CODE ENFORCEMENT BOARD**

RESOLVED, the City Council of the City of Neptune Beach, Florida, hereby confirms the following board appointment:

Member	Code Enforcement Board		Begins	Ends
	Type	Term		
Richard Keene	New Alternate	1-year	3/1/1999	3/1/2000

Moved by Jones, seconded by Tankersley.

Motion: **TO ADOPT RESOLUTION 99-06, AS NOTED ABOVE.**

Roll Call Vote:

Ayes: 3 – Jones, Tankersley, Vaughn
 Noes: 1 – Shimp
 Absent: 1 – Patronik

MOTION CARRIED.

MOBILITY 21 **MOBILITY 21 REPORT:** Mayor Vaughn brought to everyone's attention that there was information on the City of Jacksonville Transportation Master Plan (MOBILITY 21) and a questionnaire designed to develop input on the Master Plan. He encouraged everyone to fill one out and send to the appropriate agency.

Amend Agn Format

RESOLUTION 99-07: RESOLUTION AMENDING RESOLUTION 99-02 ORDER OF BUSINESS TO CHANGE COMMITTEE REPORTS TO "COMMITTEE REPORTS BY CITY MANAGER".

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

SECTION 1. The business of the Council shall be taken up for consideration and disposition in the following order:

A. *Regular Meetings.*

1. Call to Order
2. Pledge of Allegiance
3. Awards/Presentations/Recognition of Guests
4. Approval of Minutes
5. Communications and Correspondence
 - Mayor
 - Council
 - City Clerk
 - City Manager
6. City Manager Reports
7. Comments from the Public
8. Consent Agenda
9. Variances
10. Ordinances
11. Old Business
12. New Business
13. Adjourn

B. *Regular Workshop Meetings*

1. Call to Order
2. Committee Reports by City Manager
3. City Manager Punch List
4. Proposed Ordinances
5. Contracts / Agreements
6. Issue Development
7. Public Comments on Agenda Items Only
8. Adjourn

Moved by Tankersley, seconded by Shimp.

Motion: **TO ADOPT RESOLUTION 99-07, AS NOTED ABOVE.**

Roll Call Vote:

Ayes: 4 – Jones, Shimp, Tankersley, Vaughn

Noes: 0

Absent: 1 - Patronik

MOTION CARRIED.

Sunday in the Park

SUNDAY IN THE PARK: Approval of Sunday in the Park to be planned and coordinated by resident Elaine Kenny, without oversight by the Community Events Special Committee.

Moved by Tankersley, seconded by Shimp.

Motion: **TO APPROVE SUNDAY IN THE PARK TO BE PLANNED AND COORDINATED BY RESIDENT ELAINE KENNY, AS STATED.**

Roll Call Vote:

Ayes: 3 – Jones, Shimp, Tankersley
 Noes: 1 - Vaughn
 Absent: 1 - Patronik

MOTION CARRIED.

Events List / Media
 One Funds

EVENTS LIST 1999 AND MEDIA ONE FUNDS: Approval of 1999 Events List and authorization to utilize Media One Funds for events with the stipulation that the City Manager present a proposed budget to Council for approval prior to each event. The 1999 Events List is as follows:

- Jarboe Park Rededication - March 14, 1999
- Dedication of Ish Brant City Hall - TBA
- Easter Egg Hunt - April 2, 1999, 10:00 a.m. at Jarboe Park
- Picnic in the Park - Saturday/Sunday in June, TBA at Jarboe Park
- King Neptune Festival - Saturday in October or November, TBA at Jarboe Park
- Christmas in the Park - December 10, 1999, 7:00 p.m. at Jarboe Park
- Santa Clause Parade - December 18, 1999, 10:00 a.m. throughout Neptune Beach
- Joint Town Center Christmas
- Sunday in the Park - April 11, 1999 at Jarboe Park

Moved by Tankersley, seconded by Jones.

Motion: **TO APPROVE THE 1999 EVENTS LIST, INCLUDING SUNDAY IN THE PARK, AND AUTHORIZE THE USE OF MEDIA ONE FUNDS FOR THESE EVENTS.**

Roll Call Vote:

Ayes: 3 – Jones, Shimp, Tankersley
 Noes: 1 - Vaughn
 Absent: 1 - Patronik

MOTION CARRIED.

Jaxon DeVille Mascot
 Easter Egg Hunt

JACKSONVILLE JAGUAR MASCOT JAXON DEVILLE: Approval of \$200 to secure Jacksonville Jaguar "Jaxon DeVille" for Easter Egg Hunt.

Consensus: **WITHDRAWN, INDIVIDUAL APPROVAL NOT NECESSARY ACCORDING TO FRANCHISE AGREEMENT.**

In response to the Mayor, the City Manager stated that the City would approve the above noted expenditure.

Budget Sunday in
 the Park

BUDGET FOR SUNDAY IN THE PARK: Appropriation of \$500 itemized budget from Media One Funds for Sunday in the Park.

Consensus: **WITHDRAWN, INDIVIDUAL APPROVAL NOT NECESSARY ACCORDING TO FRANCHISE AGREEMENT.**

NB vs. Petit

RESOLUTION 99-10: RESOLUTION FOR SETTLEMENT OF NEPTUNE BEACH v.

Litigation

PETTIT LITIGATION.

Whereas, the City of Neptune Beach has been offered the sum of \$46,500 by Defendant Barbara J. Pettit in the case of Neptune Beach v. Barbara J. Pettit, Duval County Circuit Court Case No. 97-00503-CA, Division CV-F, as full and complete settlement of the claims of the City of Neptune Beach against Barbara J. Pettit in that case; and

Whereas, it is in the best interest of the City of Neptune Beach to accept the sum of \$46,500 as full settlement in that case.

Now, therefore, be it resolved that:

Section 1. The City of Neptune Beach approved the settlement in the amount of \$46,500 as full settlement of the City's claims in this case, with said sum to be paid no later than August 16, 1999, with the understanding that if said amount was not paid by that date, the property involved will be sold at the public sale with the proceeds being used to pay the above sum to the City.

Section 2. Christopher A. White, general counsel for the City of Neptune Beach, is hereby authorized to execute all necessary documents relating to this settlement.

Moved by Jones, seconded by Shimp.

Motion: **TO ADOPT RESOLUTION 99-10, AS NOTED ABOVE.**

Roll Call Vote:

Ayes: 4 – Jones, Shimp, Tankersley, Vaughn

Noes: 0

Absent: 1 - Patronik

MOTION CARRIED.

Debris Mgmt
Seminar

DEBRIS MANAGEMENT SEMINAR: Approval of appropriate management personnel, including the City Manager, to attend Advanced Debris Management Seminar offered by Florida Division of Emergency Management. Item requested by Mayor Vaughn.

WITHDRAWN.

Dancing in the
Streets

RESOLUTION 99-09: RESOLUTION TO WAIVE ENFORCEMENT OF SECTION 4-5 OF THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA.

WHEREAS, Section 4-5 of the Code of Ordinances "Consumption on Atlantic Ocean beach, other public places" prohibits consumption or possession of open alcoholic beverages at public places in the City; and

WHEREAS, the Town Center Festival Committee has requested a waiver of this ordinance during an event know as "Dancin' in the Streets"; and

WHEREAS, the purpose of the event is to raise funds to be used to further the physical improvements of the City as a direct public interest; and

WHEREAS, the committee has designated an area whereby consumption and possession will be controlled.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

SECTION 1. The prohibitions as expressed in Section 4-5 of the Code of Ordinances of the City of Neptune Beach be waived during the hours established from 11:00 a.m. to 10:00 p.m. on May 15, 1999.

Moved by Jones, seconded by Shimp.

Motion: **TO ADOPT RESOLUTION 99-09, AS NOTED ABOVE.**

Roll Call Vote:

Ayes: 4 – Jones, Shimp, Tankersley, Vaughn

Noes: 0

Absent: 1 - Patronik

MOTION CARRIED.

MUP Engineers

ENGINEERING FIRMS - MASTER UTILITY PLAN: Approve selection of engineering firms to provide services for project associated with the Master Utility Plan.

City Manager Recommendation. The City Manager stated that following solicitation for request for proposals, three firms of the twelve responses received were selected by a committee to be involved in the design throughout the project. He recommended that Council authorize him to negotiate project design agreements with any of the three following engineering firms, as needed, to perform the services of various projects and tasks identified in the Capital Improvement Plan on an individual basis. Each project design agreement would require Council approval throughout the program: (1) Smith & Gillespie Engineers, (2) Post, Buckley, Schuh & Jernigan, and (3) Connelly & Wicker.

Councilor Shimp submitted a draft resolution, for Council consideration at a later date, outlining some guidelines for lift stations.

Mayor Vaughn questioned whether or not Section 287, Florida Statutes, had been complied with on request for proposals. Following discussion, the City Attorney asked for time to review the situation and facts.

Consensus: **FORWARD TO A MARCH 15, 1999 SPECIAL AGENDA FOR FURTHER DISCUSSION AND ACTION.**

Ish Brant City Hall Dedication

ISH BRANT CITY HALL DEDICATION: Approve budget for dedication and naming City Hall as the Ish Brant Building.

Consensus: **WITHDRAWN, INDIVIDUAL APPROVAL NOT NECESSARY ACCORDING TO FRANCHISE AGREEMENT.**

Chg. Order 1 TomBoy Const.

CHANGE ORDER - TOMBOY CONSTRUCTION - LIFE GUARD STATION: Request for Change Order No. 1, in an amount not to exceed \$5,385.85, to TomBoy Construction Contract for new slab to the lifeguard station building.

City Manager Linn advised that the City recently learned the existing slab would not safely support a new building. Therefore, a Change Order would be necessary before construction could commence.

Moved by Tankersley, seconded by Jones.

Motion: **TO APPROVE CHANGE ORDER NO. 1, IN THE AMOUNT OF \$5,385.85, TO TOMBOY CONSTRUCTION FOR A NEW SLAB PRIOR TO CONSTRUCTION OF THE NEW LIFE GUARD BUILDING.**

Roll Call Vote:

Ayes: 4 – Jones, Shimp, Tankersley, Vaughn
Noes: 0
Absent: 1 - Patronik

Adjournment

There being no further business, the meeting adjourned at 9:36 p.m.

George F. Vaughn, Jr., Mayor

ATTEST:

Becky E. Hanks, CMC/AAE, City Clerk

Approved: _____