



MINUTES
REGULAR CITY COUNCIL MEETING
MAY 6, 2002 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 May 6, 2002, at 7:00 p.m., in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida.

Attendance

IN ATTENDANCE:

Mayor Richard A. Brown	City Attorney Christopher A. White
Vice Mayor Robert D. Shimp	City Clerk Lisa Volpe, CMC
Councilor Jimmy Gilbert	Assistant to the City Manager Terry Klein
Councilor Ronald D. Patronik	Assistant to the Building Official Piper Turner
Councilor Harriet Pruette	Building Official Dan Arlington
City Manager Richard A. Linn	Deputy City Clerk Karla Strait, CMC

Order Call/Pledge

Mayor Brown called the meeting to order at 7:00 p.m. and asked Councilor Patronik to lead the Pledge of Allegiance.

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS

Ish Brant Portrait

PRESENTATION OF ISH BRANT PORTRAIT: Mayor Brown announced the community had raised money to purchase a portrait of Ish Brant, painted by local artist Mary Jane Birch, for placement in City Hall. Mayor Brown asked Jean McCormick to assist him in unveiling the portrait. Terry Brant presented a check to Mayor Brown for the remainder of the funds to be used by Ish Brant Beautification Committee.

Kenny

PRESENTATION OF PLAQUE TO ELAINE KENNY: Mayor Brown recognized and presented a plaque to Elaine Kenny in appreciation for her efforts and dedication for the past years hosting the annual "Sunday in Park" event.

APPROVAL OF MINUTES

Motion: **TO APPROVE THE FOLLOWING MINUTES AS STATED:**

APRIL 8, 2002, REGULAR COUNCIL MEETING
APRIL 15, 2002, WORKSHOP COUNCIL MEETING

Moved by Patronik, seconded by Gilbert.

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Councilor Gilbert stated Lemon Street was overgrown behind Tucker Rental and asked the City Manager if this could be cleaned up because he was concerned about transients. Councilor Gilbert thanked City Manager Linn for repairing the pothole at the intersection of Forest Avenue and Penman Road.

Vice Mayor Shimp stated some neighbors on North Street had asked him if something was wrong with the water pressure in that area.

Councilor Patronik questioned the parking of commercial vehicles on a property on Penman Road. City Manager Linn responded the property was at Neptune Lane and Penman Road and the issue had been turned over to the building department for code enforcement. Mr. Linn added that a property owner was allowed to park a dump truck on their property if he was not conducting a commercial business out of the home. Building Official Dan Arlington reported the case was in progress.

Councilor Pruette had also received complaints regarding the low water pressure on North Street. Councilor Pruette added she had pictures of the vacuum system from the St. Augustine trip if anyone would like to view them.

CITY MANAGER REPORTS

- Service Awards EMPLOYEE SERVICE AWARDS: City Manager Linn reported the City held the hot dog luncheon for employee longevity awards. Forty employees were recognized for a total of 505 years of service to the community. Mr. Linn thanked Councilor Pruette for suggesting the employees be recognized for years of service.
- Fire Hydrants UPDATE ON THE REPLACEMENT OF FIRE HYDRANTS: The Public Service Department had completed installation of 17 replacement fire hydrants. In order to replace the remaining fire hydrants the water service would have to be cut off in some areas. This may slow down the process and create inconvenience to residents for several hours.
- Water Improvement WATER CAPITAL IMPROVEMENT PROJECT UPDATE: The contractor had supplied the required documents to the Florida Department of Environmental Protection and the bonding agency. He was expecting approval from DEP this week. Once approval was received he would send the contractor a notice to proceed and the contractor would be required to start the job within 30 days.
- Sunday in the Park REPORT ON SUNDAY IN THE PARK: City Manager Linn thanked Elaine Kenny for hosting the "Sunday in the Park" event. The event was well received by the community. He also thanked the City Council members for their participation.
- Budget Mtgs Councilor Pruette asked about setting dates for the budget meetings. City Manager Linn responded that Finance Director Steve Ramsey had requested budgets from the department heads.

COMMENTS FROM THE PUBLIC

Mayor Brown stated the council would hear public comments regarding Summer Sands under item 12-d, Jarrett development of Poinciana Drive.

Elaine Kenny, 1301 Neptune Grove Drive West, stated she enjoyed hosting "Sunday in the Park" and hoped to continue hosting it years to come.

Larry Shealy, 1501 First Street, member of the Planning & Development Review Board, stated he had served on the board for the past year and enjoyed it very much. Mr. Shealy questioned the existence of the Board when Ordinance 2002-03 was on the agenda to allow drive-in restaurants in the city after the Board had voted 6 to 1 not to change it.

Gerald Schrule, 1417 Neptune Grove Drive West, member of the Planning & Development Review Board, voiced concern about the drive-in restaurant ordinance as well as the action taken by Council last month concerning the sign at Amsouth Bank. Mr. Schrule added the board members were all volunteers and the council should accept their recommendations.

Legal Advice City Attorney Chris White advised that no official action could be taken on ordinance 2002-03. In order to consider an ordinance that dealt with changing prohibited land uses the state law required advertisement of two public hearings one at both the first and second read.

Leslie Karlin, 1506 Spindriff Circle, questioned under what cause should a board member recuse himself from hearing and voting on a case. City Attorney White advised the ethics commission had very strict standards and the only reason a member should recuse himself was if there was a financial interest or personal gain.

CONSENT AGENDA / NONE

VARIANCES / NONE

ORDINANCES

Ordinance No.
2002-02

ORDINANCE NO. 2002-02, ESTABLISHING THE STORMWATER UTILITY, FINAL READ AND PUBLIC HEARING, SPONSORED BY COUNCILOR GILBERT: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA ESTABLISHING THE CITY'S STORMWATER UTILITY SYSTEM; SETTING FORTH PROVISIONS FOR SCHEDULE OF RATES; BILLING AND PAYMENT AND OTHER MATTERS IN RELATION THERETO; AMENDING SECTIONS 27-480(A), 27-548(D) AND 27-548(E) AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown opened the floor for public comments.

There being no comments from the public, the public hearing was closed.

Moved by Shimp, seconded by Patronik.

Motion: **TO ADOPT ORDINANCE NO. 2002-02, ESTABLISHING THE STORMWATER UTILITY, ON SECOND AND FINAL READ AS STATED.**

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

Ordinance No.
2002-03

ORDINANCE NO. 2002-03, AMENDING CHAPER 27 TO ALLOW DRIVE IN RESTAURANTS IN C-3 DISTRICT BY SPECIAL EXCEPTION, SPONSORED BY

MAYOR BROWN: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING SECTION 27-225(2), USES EXPRESSLY PROHIBITED WITHIN ZONING DISTRICTS, AND TABLE 27-226-1 TABLE OF PERMISSIBLE USES AND PROVIDING AN EFFECTIVE DATE.

Ordinance 2002-03 was not heard because of City Attorney White's earlier comments. Mr. White added the first public hearing had to be held at least seven days after the first advertisement and the second hearing had to be held at least ten days after the first and should be advertised at least five days prior to that hearing.

Consensus: **MOVE ORDINANCE NO. 2002-03 TO THE MAY WORKSHOP MEETING FOR FURTHER DISCUSSION.**

OLD BUSINESS

Emergency
Generator

AWARD PURCHASE CONTRACT FOR EMERGENCY GENERATOR: City Manager Linn explained council authorized him to advertise bids on a replacement generator for the public safety building. Mr. Linn added that out of nine bids Cummings Southeastern came in the lowest at \$17,660.79. Mr. Linn recommended awarding the contract to Cummings Southeastern in the amount of \$17,660.79.

Moved by Shimp, seconded by Patronik.

Motion: **TO AWARD CONTRACT FOR EMERGENCY GENERATOR TO CUMMINGS SOUTHEASTERN IN THE AMOUNT OF \$17,660.79.**

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

Public Services
Facility

AWARD ARCHITECTURAL SERVICE CONTRACT TO PQH VARGAS TO PLAN AND DESIGN PUBLIC SERVICES FACILITY: City Manager Linn recommended awarding a contract to PQH Vargas in the amount of \$85,391.02 to plan and design a new public services facility. Mr. Linn explained the design would be completed in two phases, the first phase would be the pre-design at \$24,891.02, the second phase was the schematics at 45,000, and the remaining amount was for reimbursements. Mr. Linn added the contract could be terminated at anytime. He anticipated the funding for the project coming from the Better Jacksonville Plan.

Moved by Shimp, seconded by Patronik.

Motion: **TO AWARD THE ARCHITECTURAL SERVICE CONTRACT FOR THE PLAN AND DESIGN – PUBLIC SERVICES FACILITY TO PQH VARGAS - \$85,391.02.**

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

Kings Road
Bridge

AWARD ARCHITECTURAL SERVICE CONTRACT TO PQH VARGAS TO REPLACE THE KINGS ROAD BRIDGE: City Manager Linn stated the number one priority for the use of the revenue from the Better Jacksonville Plan was to replace the Kings Road bridge. Mr. Linn recommended awarding a study contract to PQH Vargas not to exceed

the amount of \$25,000, with a related budget of \$10,500 for needed testing.

Legal City Attorney White advised that according to state law the city could award a contract up to \$25,000 for a study without advertising for proposals.

City Manager Linn stated the City of Jacksonville Beach would provide temporary access at the end of a cul-de-sac while the bridge was being constructed.

Councilor Pruette asked City Manager Linn what the time frame would be. Mr. Linn estimated three to six months on the design.

Moved by Gilbert, seconded by Pruette.

Motion: **AUTHORIZE THE CITY MANAGER TO REQUEST QUALIFICATIONS FOR THE DESIGN AND BUILD OF THE KINGS ROAD BRIDGE.**

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

NEW BUSINESS

Hagler Drive

AWARD CONTRACT TO GRUHN-MAY TO REPLACE WATER LINE ON HAGLER DRIVE: City Manager Linn stated he was recently made aware that the residents along Hagler Drive had been suffering for years with low water pressure. Mr. Linn recommended awarding a contract to Gruhn-May for replacement of the water line.

Vice Mayor Shimp asked if the pipe bursting technology could be used to replace the line. Jim Miller, PBS&J, stated the line could only go up one size. It was a 2-inch line and could not go up to a 6-inch line.

Councilor Pruette asked if it was fair to other contractors to award the bid to Gruhn-May without requests for proposals. City Manager Linn explained it was a \$35,000 project and putting together a bid package would cost \$5,000. City Manager Linn added the contract with Gruhn-May would be piggy backed off Atlantic Beach.

Moved by Shimp, seconded by Pruette.

Motion: **TO AWARD A CONTRACT TO GRUHN-MAY FOR THE REPLACEMENT OF THE WATER LINE ON HAGLER DRIVE.**

City Attorney White asked if there would be a signed contract or an agreement. City Manager Linn responded it would be done by purchase order.

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

Dancin' in the Streets

APPROVE FIRST STREET CLOSURE AND WAVE ENFORCEMENT OF OPEN CONTAINER ORDINANCE FOR "DANCIN' IN THE STREETS": City Manager Linn recommended closing the streets on Atlantic Boulevard to Second Street and First Street to Orange Street and waiving the open container ordinance for the annual

Dancin' in the Streets.

Moved by Patronik, seconded by Shimp.

Motion: **TO CLOSE OFF THE STREETS AND WAVE THE ENFORCEMENT OF THE OPEN CONTAINER ORDINANCE DURING THE HOURS OF THE FESTIVAL ONLY AND WITHIN THE FESTIVAL BOUNDARIES.**

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

Resolution No.
2002-07

RESOLUTION NO. 2002-07: RESOLUTION ESTABLISHING STORMWATER UTILITY RATE AND PROVIDING AN EFFECTIVE DATE.

Moved by Shimp, seconded by Patronik.

Motion: **TO ADOPT RESOLUTION NO. 2002-07, ESTABLISHING STORMWATER UTILITY RATE.**

Roll Call Vote:

Ayes: 5 – Gilbert, Patronik, Pruette, Shimp, Brown

Noes: 0

MOTION CARRIED

Legal Opinion City Attorney White clarified that you could not close off a right-of-way at the request of adjoining property owners. The right-of-way was there for the public and there had to be substantial evidence to deny access to the property.

Recess/Reconvene The meeting recessed at 8:50 p.m. and reconvened at 9:00p.m.

Poinciana **STEVE JARRETT DEVELOPMENT ON POINCIANA ROAD:** Councilor Gilbert stated he met with Steve Jarrett and the representatives for Summer Sands on two different occasions. The number one thing Summer Sands wanted was to permanently close the rear entrance to Summer Sands. Councilor Gilbert suggested the city develop the remainder of streets in Neptune Beach that had not been developed.

Vice Mayor Shimp stated he would sponsor a bill closing off Bay Street and abandoning the property. He felt there should be a compromise between the Summer Sands residents and Steve Jarrett.

Councilor Patronik felt Mr. Jarrett should not have to absorb the additional cost for an alternative access. He was concerned about having substantial evidence to close off the street.

Councilor Pruette stated Mr. Jarrett had an alternate access and it was all about money. She suggested asking the City of Jacksonville to install a culvert.

Steve Jarrett stated he had anticipated that the right-of-way would be open for access to the property. He was willing to access the property through another route but felt he should not have to bear the total cost. He added that the situation needed to be resolved as soon as possible so he could market the property while the market was still good.

Council discussed the alternative routes and the cost of providing them.

Steve Jarrett asked when Council would consider his request to divide one of the lots.

Bill Darush, 304 Sunrise Circle, President of the Summer Sands Homeowners Association, stated there was a definite traffic problem because there was not a traffic light at the intersection of Atlantic Boulevard and more vehicles would add to the problem. They did not want other cars using the entrance or the streets that they developed and maintained. It was their opinion that the developer should pay for one of the three alternative accesses. They also did not want one member of Summer Sands to be assessed for any streets that Mr. Jarrett developed because it would not benefit them in any way. His thoughts from the last meeting were that the consensus of council was that Mr. Jarrett would not use the Summer Sands entrance and they would be notified of future meetings regarding the issue. He added the residents were not notified the issue would be on the agenda tonight.

Mayor Brown emphasized the City Attorney advised that council may not have the right to deny access to a city street.

Councilor Pruette stated a solution needed to be made as soon as possible.

Vice Mayor Shimp asked the staff to estimate the cost of alternate accesses and contact the City of Jacksonville about installing a culvert.

Councilor Patronik stated cost of alternative accesses could be discussed at the next workshop and emphasized based on the City Attorney's advice there had to be a clear reason with evidence why the access was being denied.

City Manager Linn questioned how to place the subject back on the agenda since the council took action to deny the development order.

Vice Mayor Shimp stated he would ask to place the development order to split the lots back on the agenda. He questioned why Oakhurst could not be abandoned when other roads in the city have been abandoned.

Councilor Gilbert stated that according to Mr. Darush the Summer Sands Homeowners Association could not be accessed for streets unless it was for the benefit of the entire subdivision. Councilor Gilbert questioned if the law would allow the city to pay for them if it did not benefit the entire city.

COMMENTS FROM THE PUBLIC

Michael Aston, 1523 Summer Sands Drive, felt that the city had the authority, power, and legal right to control the amount and direction of traffic flow in a development within the city. He did not believe it would cause a burden to Mr. Jarrett. Mr. Aston read parts of a prepared two page letter and quoted statements from the March 2002, Planning & Development Review Board meeting. He also mentioned a letter from Mayor Vaughn to the Florida Department of Transportation and Resolution No. 2000-06 passed by the council, regarding concern for a traffic light at the intersection of Atlantic Boulevard and Summer Sands. He was also concerned that Summer Sands was not properly notified. He requested postponing the decision until experts had reviewed the issue of drainage.

Shelby Weikel, 228 Windswept Circle, agreed the residents of Summer Sands were not notified of the development. When she bought her property in 1991 she was assured the city had no plans to turn the end of Oakhurst Drive into a roadway because of a water or sewer main. Ms. Weikel also felt the owners of Summer Sands should not be accessed for any new streets.

Leslie Karlin, 1506 Spindrift Circle West, felt Mr. Jarrett should pay for the streets and pass the expense on to his buyers.

Linda Perschel, 1865 Nightfall Drive, owner of eight lots on Bay Road and Poinciana, would be most affected by the assessment. Owner of the red schoolhouse and two lots on the other side of Bay Road. The children cross back and forth on that road to play on the soccer field and baseball field. She would be penalized personally for not developing the land. She had asked many times to rezone the property and made a commitment to the council not to develop the land. It would be a tremendous cost to her. She did not think it was fair to close off the road. If she was assessed 11,000 a lot she would have nothing to lose by hiring an attorney. She also was not notified the Council was discussing assessing the property owners.

Fred Hofmann, 130 Sand Castle Way, thought the council should look into the possibility of abandoning the property at the end of Oakhurst Road.

Resolution No.
2002- 08

RESOLUTION NO. 2002-08, BOARD APPOINTMENTS: A RESOLUTION APPOINTING BOARD MEMBERS TO THE BOARD OF APPEALS AND REAPPOINTING MEMBERS TO THE CODE ENFORCEMENT BOARD AND PLANNING AND DEVELOPMENT REVIEW BOARD.

Vice Mayor Shimp stated that Donald White, Chairman of the Board of Appeals, was currently serving on the Board and his term limits had expired. Vice Mayor Shimp requested Resolution No. 2002-08 be deferred until the staff researched the term limits of the appointees.

BOARD OF APPEALS

Daniel Disch	Appoint Regular	3 year	05/06/2002	05/05/2005
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CODE ENFORCEMENT BOARD

James Ness	Reappoint Alternate	1 year	04/02/2002	04/03/2002
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PLANNING & DEVELOPMENT REVIEW BOARD

Fred Lee	Reappoint Alternate	1 year	04/02/2002	04/01/2003
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Consensus: **TO DEFER RESOLUTION NO. 2002-08 TO THE WORKSHOP AND RESEARCH THE APPOINTEES TERM LIMITS.**

Adjournment

There being no further business, the meeting adjourned at 10:24 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____

