



MINUTES
WORKSHOP CITY COUNCIL MEETING
MAY 20, 2002 AT 7:00 P.M.
CITY HALL, 116 FIRST STREET
NEPTUNE BEACH, FLORIDA

Pursuant to proper notice a Workshop Meeting of the City Council of the City of Neptune Beach was held May 20, 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
Vice Mayor Robert A. Shimp
Councilor James Gilbert
Councilor Ronald A. Patronik
Councilor Harriet Pruette
City Attorney Christopher White

City Manager Richard A. Linn
City Clerk Lisa Volpe, CMC
Deputy City Clerk Karla Strait, CMC
Assistant to the City Manager Terry Klein
Director of Public Finance Steve Ramsey
Director of Public Services John Galen
Building Official Dan Arlington

Call to Order/Roll Call The Mayor called the meeting to order at 7:00 p.m.

COMMITTEE REPORTS

IBBC **ISH BRANT BEAUTIFICATION COMMITTEE REPORT:** City Manager Linn reported the Ish Brant Beautification Committee had a work detail at the butterfly garden in Jarboe Park last Saturday.

CITY MANAGERS PUNCH LIST

Water Improvement Project **WATER IMPROVEMENT PROJECT – PHASE 1 B&C:** City Manager Linn updated he had received approval from the Florida Department of Environmental Protection for the award of the bid. The engineer issued a notice to proceed to the contractor and the clock started Friday. The city website had a link to PBS&J that had the contractor's construction schedule.

Jarboe Park **FOOTBRIDGE – JARBOE PARK:** Vice Mayor Shimp asked City Manager Linn when the footbridge would be installed in Jarboe Park. Mr. Linn responded it should be in a couple of weeks.

FLCC **FLORIDA LEAGUE OF CITIES ANNUAL CONFERENCE:** City Clerk Lisa Volpe reminded council the Florida League of Cities Conference would be held in August and asked them to notify the clerk's office if they would like to attend.

PROPOSED ORDINANCES

Ord. No. 2002-03 **ORDINANCE NO. 2002-03, DRIVE IN RESTAURANTS:** 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.

Mayor Brown explained there was a request for consideration to remove the old outdated building that was Mays Chinese Restaurant on Atlantic Boulevard and replace it with a modern Sonic's Drive-In Restaurant. The code currently prohibited drive-in service restaurants. The Planning & Development Review Board turned down the request for a special exception to allow the Sonic. This ordinance would amend the code and allow drive-in restaurants.

Councilor Pruette felt the council should consider making the current outdoor dining in Town Center legal.

Vice Mayor Shimp agreed with the Planning & Development Review Board. He was concerned about trash being blown around.

Councilor Gilbert also agreed with the Planning & Development Review Board. He stated the Sonic in Mayport created a lot of trash around the area.

Consensus: **LEAVE THE EXISTING ORDINANCE IN PLACE.**

Ord. No. 2002-04

ORDINANCE NO. 2002-04, IMPERVIOUS SURFACE: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING SECTION 27-238, MAXIMUM LOT COVERAGE AND PROVIDING AN EFFECTIVE DATE.

Councilor Pruette stated impervious surfaces were important to the future of Neptune Beach and the ordinance was needed. There were fourteen areas in the city with drainage problems. In her block alone the drainage had worsened.

Mayor Brown stated Atlantic Beach required 50% and Jacksonville Beach required 35% pervious surface. Building Official Dan Arlington stated 50% still allowed reasonable use of a lot. Mr. Arlington commented that Jacksonville Beach allowed only 35% of a lot to be impervious, so 65% would be pervious.

Vice Mayor Shimp spoke with two engineers that confirmed it would take a 100-year storm to affect the area east of Third Street. In the seven years that he had lived there it had not got any worse. He blamed the city for not keeping up with the sewer system. He felt the only people complaining were the people whose lots were built out and the people who had not built their property out would not be able to and that would lower the value of their property. He felt more research should be done.

Mayor Brown asked if a public hearing had been scheduled on the ordinance. City Clerk Volpe responded that a public hearing would be held on the second and final read of the ordinance and there could also be a public hearing at first read if desired.

Councilor Gilbert felt the ordinance was needed to control the floodwaters but should have a one or two year grace period. He also felt it would eventually create a better way of life for everyone.

Councilor Patronik stated that a stormwater utility fee of \$3.00 per household had been adopted to maintain and improve the stormwater. He wanted to see the stormwater runoff improved and that may correct the problem without the need for the ordinance.

City Manager Linn stated the ordinance would affect the entire city but the greatest impact would be east of Third Street because of the large homes on small lots. Building

Official Dan Arlington stated the ordinance would require less than half of lots east of Third Street to request a variance to add on to their property.

Vice Mayor Shimp encouraged the other council members to drive east of Third Street and look at the different size lots because some of the homes were built on half size lots and according to the code they would not be able to rebuild. Building Official Dan Arlington explained according to the footprint bill the homes could be rebuilt to the exact square footage.

Councilor Pruette stated Neptune Beach was in the process of being completely redeveloped and the city should be proactive in order to protect future green space. Other cities had an ordinance limiting impervious surface and so should Neptune Beach. As it stood now the entire city could be completely concreted without a permit.

Consensus: **MOVE ORDINANCE NO. 2002-04 FORWARD TO THE JUNE REGULAR MEETING FOR FIRST READ AND PUBLIC HEARING.**

CONTRACT/AGREEMENTS/NONE

ISSUE DEVELOPMENT

North Street Abandonment

ABANDONMENT OF PROPERTY SOUTH OF NORTH STREET: Vice Mayor Shimp explained the city abandoned the east side of First Street to the residents because the homes were built right up to the property line. He felt the city should abandon the property on the south side of North Street for the same reason. He explained the city property was actually their front yard and they maintained it as such. Therefore he thought the city should abandon it and let them have it. He also felt it would relieve the city of legal ramifications if anyone were to be injured on the property.

Glenn Jeffreys, 111North Street, explained the property was between First Street and Strand. He was surprised that city owned the 20' of property that was his front lawn.

City Attorney White responded to City Manager Linn that abandoning the property would have an impact on setbacks, minimum lot sizes, and density and would allow lots to be subdivided.

Councilor Gilbert did not see a reason for abandoning the property. He questioned how the homes were built out to the property line to begin with and if 10 feet were abandoned they could build out that 10 feet and so forth.

Councilor Pruette did not agree with abandoning city property because it may be needed in the future.

Councilor Patronik asked how many homes would be affected. Building Official Dan Arlington responded if one of the properties was still a double lot it would affect a total of four properties.

Councilor Gilbert stated other properties within the city were also built right up to the city line and he was concerned they would also asked the city to abandon property.

Councilor Patronik suggested the city could abandon the property but retain its right to use it and they would not be able to build on it.

Vice Mayor Shimp felt it would give the property owners peace of mind to do what they wanted with their landscaping if the city would abandon the property.

BOA Term Limits

BOARD TERM LIMITS: Vice Mayor Shimp explained that it had come to his attention that Donald White had been serving on the Board of Appeals after his term limits had expired. He felt the staff failed by not recognizing his term limits had expired and recommending him to be reappointed. He felt Mr. White should be asked to resign.

Mayor Brown stated there was some confusion because Mr. White was first appointed before the term limits were adopted and he felt that his first term should not be counted.

Legal Opinion

City Attorney White explained the ordinance setting the term limits was inconsistent however the intent was to set a three-year two-term limit for regular members and should apply to the board members who were serving when the ordinance was passed. There was a hold over provision that allowed someone to hold over the term limit until he was replaced. He considered Mr. White as a hold over member of the board until he was replaced.

Councilor Pruette stated the ordinance was flawed and needed to be corrected. She added that serving on the board was a thankless job and the members had to make tough decisions. She felt Mr. White should be allowed to remain on the board and serve the remainder of his term because he had the experience and had done a good job.

City Manager Linn stated the ordinance also read that someone could be reappointed twelve months after completion of two terms and Mr. White qualified to be reappointed because his term had expired over twelve months ago. City Attorney White responded it was a matter of interpretation but the intent was to have someone off the board for a period of one year before he was reappointed.

Councilor Gilbert agreed with Vice Mayor Shimp stating that term limits were in place for a reason and it was clear that Donald White had served on the Board for almost nine years.

Vice Mayor Shimp felt that in the spirit of good faith to the community Mr. White should resign from board. The ordinance set term limits and if the term limits were not followed then we did not need a city charter.

Councilor Pruette ask City Attorney White to clear up the language of the ordinance and bring it to the council next month.

Consensus: **FORWARD TO THE JUNE REGULAR MEETING.**

Sewer Capital Improvement

SEWER CAPITAL IMPROVEMENT PROJECT: City Manager Linn stated he had placed information from Jim Miller of PBS&J regarding the Sewer Capital Improvement Project at council stations.

Councilor Pruette felt this was not the time to discuss the Sewer Capital Improvement Project because she just received the information and had not had a chance to review it. She asked that a special meeting be held as soon as possible.

Vice Mayor Shimp asked to hold a special meeting to discuss the Sewer Capital Improvement Project. He explained he brought up the issue because the last council wanted to complete the water and sewer project at the same time.

Consensus: **TO HOLD A SEPARATE MEETING TO DISCUSS THE SEWER CAPITAL IMPROVEMENT PROJECT ON MAY 29TH AT 6:30 P.M.**

- Recess/Reconvene The meeting recessed at 8:00 p.m. and reconvened at 8:10 p.m.
- Severed Sewer Line SEVERED SEWER LINE ON FLORIDA BOULEVARD: Councilor Pruette placed this issue on the agenda because she wanted to find out what the problem was with the severed sewer line and discuss solutions to reconnect it.
- City Manager Linn explained the city acted legitimately when a permit was issued back in 1987 for two sewer lines for two separate homes on one property. Subsequent to that time the lot had been subdivided without the knowledge of the city. It appeared now that one of the property owners had decided to sever the neighbor's sewer line because it ran across his property without an easement agreement. Mr. Linn concluded that this was a dispute between the two property owners and the city should not be involved.
- Mayor Brown stated he would like to have seen the staff research the legal issues of the parties. He felt anytime there was an occupied dwelling with a cut sewer line it was a city issue and needed to be handled carefully. He never expected something like this to happen in the city.
- City Manager Linn stated that both parties had been advised to seek legal counsel before the sewer pipe was cut.
- Mayor Brown had spoken with the Health Department and they would permit and allow a septic tank to be installed on the property.
- Councilor Pruette stated she was not aware of the problem until she was contacted by e-mail from the homeowner whose sewer line had been cut. She felt the city staff should have informed the council of the problem. She would like the council to pass an ordinance that would make it mandatory for all residences to have their own sewer line.
- Building Official Dan Arlington explained there was currently an ordinance in the code that required each property to have its own sewer line.
- Vice Mayor Shimp questioned if the water line was also on the neighbor's property and if it would also be cut. City Manager Linn responded that the water line was also on the neighbor's property. Vice Mayor Shimp stated the same problem existed in several areas east of Third Street. He felt if the city let it happen the city should take care of it.
- City Manager Linn informed that the city did not make the mistake. The parcel was never re-platted by the city and the property owner made the mistake by subdividing the property without recording with the city.
- Mayor Brown asked City Attorney White to prepare an ordinance making it illegal to sever a sewer line without the permission of the council.
- Legal Advise City Attorney White stated if the property owners could not reach an agreement, the council would have to decide if the city wanted to take formal legal action in terms of seeking injunctive relief against the person who disconnected the sewer line. The city could also take a look at whether or not this created a nuisance under Section 28.33 and if emergency action could be taken on a temporary basis to abate the nuisance. The only options to the city were if something could not be worked out on a short term basis between the property owners, the council would be left no alternative but to either initiate emergency nuisance procedures or file for injunctive relief downtown seeking a court order that would require the property owner to reconnect.
- Councilor Gilbert felt it was more of a civil issue than a city issue because you could not

dictate where a person ran his sewer line on his own property. The issue went deeper than just cutting the sewer line. The division of the property created the non-conformity. He felt legislation needed to be passed in Duval County that nothing could be placed on the tax roll unless it conformed to municipality standards. He felt it was the city's responsibility to get it reconnected immediately and the two parties should settle their differences in civil court. It created a health problem and the council should force it to be reconnected. It was the city's responsibility to bring city and public services to the edge of the property line. The deeds were issued with the sewer line on the property and it should remain on the property. When the owner purchased the property he purchased the sewer line along with it.

Councilor Pruette stated that Ms. Autin, the homeowner whose sewer line was disconnected, received a Sanitation Violation Notice today from Building Official Dan Arlington stating that she needed to cap the exposed sewer line.

Ms. Autin read the following letter:

After an onsite inspection of the referred property open discharge of untreated sewage was found. The open sewer line must be capped and the contaminated area disinfected with 24 hours. The cap must be made for the purpose, be tight fitting, and be permanently installed with PVC glue. Failure to cap the open sewer line within 24 hours will result in condemnation of the residence.

Mayor Brown stated the Health Department had informed him they could cite both parties but they agreed to wait until after the council workshop meeting to discuss a solution.

Vice Mayor Shimp agreed with Councilor Gilbert that when the property was sold or bought the sewer line went along with it. It should be reconnected and an easement provided.

Councilor Patronik asked what could be done in the meantime.

Legal Advise City Attorney White advised he could begin the injunction process or if the city wanted they could authorize the reconnection. However because the city would be dealing with a private dispute there could be ramifications.

Ms. Autin did not understand why the city was not responsible since they had inspected and approved it. She stated that Building Official Dan Arlington told Mr. McCue he had the right to cut the sewer line on his property. Mr. Arlington also told her that he was doing her a favor by not condemning her property.

Mr. McCue felt it was poor planning by the city to inspect, allow, and approve the sewer line on his property without an easement. He offered to deed a 10-foot easement on his property if the city would pay the cost of installing a new sewer line and a grinder pump.

Councilor Pruette stated she did not understand why Mr. McCue cut the sewer line. Mr. McCue replied he cut the sewer line because the neighbors were selling their house and he did not want to work out the problem with the new neighbors. It was the only way he could get any action out of city.

Mayor Brown asked Mr. McCue if he would be willing to allow a temporary connection while a solution was being worked out. Mr. McCue responded he would allow temporary connection with a written statement that the city would pay for and install the sewer. Mayor Brown replied the council could not take any immediate action.

Councilor Pruette stated there was a couple in the audience that lived over there that had

an easement and she wanted to hear from them.

Terry and Sandra Jordan, 1025 Neptune Lane, were concerned because the survey of their property they had done in 1981 showed their sewer line crossed their neighbor's property. City Manager Linn advised them that it would be in their best interest to get a written easement agreement with their neighbor.

City Attorney White questioned who would prepare the paperwork for the 10-foot easement agreement between the property owners.

Mr. McCue stated he would have his counsel prepare the agreement for the easement. He agreed to connect the sewer line temporarily if the city would agree to allow the 10-foot easement and install the sewer line and grinder pump. Mayor Brown stated again the city could not take action at a workshop meeting.

Mr. McCue would not agree to temporarily reconnect the sewer line until he spoke with his counsel.

For the Record Mayor Brown asked on the record if there was an agreement to reconnect the sewer line.

City Attorney White clarified Mr. McCue stated he would speak with his counsel in the morning and have a decision back to the city by 11:00 a.m. tomorrow.

Building Official Dan Arlington stated the most important issue at hand was the raw sewage coming out the pipe. He added it would only cost about ten dollars to cap it off and would take about a half an hour.

Vice Mayor Shimp asked if the city would give them until tomorrow to cap the sewer line.

Consensus: **TO FILE AN INJUNCTION IF NOTICE IS NOT RECEIVED FROM MR. MCCUE ALLOWING RECONNECT THE SEWER LINE BY 11:00 A.M. TOMORROW.**

Poinciana Road

COST OF ALTERNATE ROADWAYS TO POCIANNA ROAD: Mr. Linn stated Director of Public Works John Galen had prepared a cost estimate of \$35,500 for an alternate entrance to Steve Jarrett's property from Bay Road down to Poinciana Road. The estimate did not include drainage or curb work. Mr. Jarrett's cost estimate was around \$65,000 including drainage, water and sewage. Including the water, sewer and drainage both were about the same. The other alternate entrance was going out Oakhurst Drive to Florida Boulevard. He had contacted the City of Jacksonville and they would not agree to install a culvert at the intersection. It was beyond his ability to estimate that cost but at the direction of the council he could hire an engineer.

Councilor Pruette responded to Mr. Linn she had spoken with City of Jacksonville Councilman Jerry Holland about the installing the culvert, and was told today that he was looking into it and Mr. Beck would write a letter this week with an estimate of the cost.

Director of Public Services John Galen stated in 1985 when Smith & Gillespie did the plans for Prado Ferrer that portion of Oakhurst Drive going out to Florida Boulevard was strictly designed to be a drainage structure and was never intended to be a road.

Vice Mayor Shimp, commented that not long ago when Summer Sands requested that a traffic light be placed at the entrance on Atlantic Boulevard one of the reasons the Stated would not allow it was because there was an alternate entrance off of Florida Boulevard they could open up. At that time there was no problem with opening that portion of Oakhurst Drive. The city had agreed to open Oakhurst Drive for Summer Sands and

should do the same for Mr. Jarrett.

Mayor Brown stated the dilemma was that Mr. Jarrett had a legal right to connect through Oakhurst Drive.

Councilor Patronik thought it would be fair for the city to subsidize the additional cost of an alternate entrance other than through Summer Sands.

Councilor Gilbert stated legally the city could not deny Mr. Jarrett the right to access his property through Summer Sands. He did not think it was fair to assess the residents of Leeward Landing and Bal Harbour for the cost of the road modifications for Bay Road, Poinciana Road, and Oakhurst Drive. He thought the city needed to make a decision to develop all undeveloped streets in the city and assess the property owners to avoid this problem arising in the future.

Mayor Brown stated that without a true engineering study we could not get an accurate estimate.

Director of Public Services John Galen stated the city should leave the roads the way they were platted. He added that portion of Oakhurst Drive was a drainage structure and if it were opened up to Florida Boulevard there would be nowhere for water to drain. He felt the residents of Summer Sands would not benefit from the alternate access and should not be assessed.

Councilor Gilbert stated Summer Sands would benefit if Mr. Jarrett entered his property through Bay Road because the future owners of those four lots would not be driving through the Summer Sands entrance down Oakhurst Drive and that was precisely the reason alternate access was being discussed.

Mr. Jarrett commented Mr. Galen was trying to explain it would be a tremendous infrastructure expense to open Oakhurst Drive because the water would have to be forced to drain somewhere else and a new water management plan would be needed.

Vice Mayor Shimp suggested placing the issue on the June 3, 2002, agenda and voting on it.

Steve Jarrett stated the council had two decisions, either subsidize the project or, assess the adjoining property owners.

Budget Workshops

Mayor Brown asked if everyone agreed with the dates of June 17th and July 8th that Director of Finance Steve Ramsey had set for the budget workshops.

Consensus: **TO HOLD BUDGET WORKSHOP MEETINGS ON JUNE 17, 2002 AND JULY 8, 2002 AT 6:00 P.M.**

Public Comments

PUBLIC COMMENTS ON AGENDA ITEMS ONLY

Leslie Karlin, 1506 Spindrift Circle West, felt Summer Sands residents had a right to their privacy and the developer should pay for his own entrance and streets. She added the public right of way was not a true right of way because it did not go anywhere.

Carlos Asensio, 1311 Atlantic Boulevard, representative for the property owner, stated they would like the city to grant a special exception to allow a Sonic Drive-In Restaurant at 1311 Atlantic Boulevard. He added the shopping center was becoming a blighted area and a Sonic would bring value into the community. Sonic was a large restaurant chain with over 2,400 Sonics in 30 states.

Michael Aston, 1523 Summer Sands Drive, stated the main concern of the residents of Summer Sands was not opening Oakhurst Drive to be a through street from Atlantic Boulevard to Florida Boulevard.

Larry Shealy, 1501 First Street, member of the Planning & Development Review Board, stated Carlos Asensio, the representative for the property at 1311 Atlantic Boulevard was present at the meeting and did not take the opportunity to speak with Board.

Lana Huguenin, 1521 Summer Sands, was familiar with the Sonic restaurant chain and stated they were very involved in community. She felt it would be a good addition to the city.

Lynda Padrta, 1113 First Street, felt the city tax money belonged to the all the citizens of Neptune Beach and should be spent for the benefit of the entire city. It was her impression the two property owners discussed the sewer line and decided to cut it in order to force the city to pay for the cost of the grinder pump and new sewer line. She did not favor the drive in restaurant on Atlantic Boulevard because trash would be a major concern.

Jim Miller, 1633 Hopkins Creek Lane, stated setting limits on impervious surfaces did not necessarily mean it would increase of decrease the runoff.

Councilor Pruette urged the council to ask Building Official Dan Arlington to work with the City of Jacksonville in passing an ordinance that would not allow Duval County to record a property without the consent of the Planning & Development Review Board.

Steve Jarrett stated the city would have a hard time enforcing such an ordinance.

Adjournment

There being no further business, the meeting adjourned at 10:21 p.m.

Richard A. Brown, Mayor

Attest:

Lisa Volpe, CMC, City Clerk

Approved: _____