



**MINUTES**  
**WORKSHOP CITY COUNCIL MEETING**  
**JANUARY 27, 2003 AT 7:00 P.M.**  
**CITY HALL, 116 FIRST STREET**  
**NEPTUNE BEACH, FLORIDA**

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Pursuant to proper notice a Workshop Meeting of the City Council of the City of Neptune Beach was held January 27, 2003 at 7:00 p.m., in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida.

Attendance:

IN ATTENDANCE:

Vice Mayor James Gilbert  
Councilor Harriet Pruette  
Councilor Larry Shealy  
Councilor John Weldon  
City Attorney Christopher White  
City Manager Richard A. Linn

City Clerk Lisa Volpe, CMC  
Director of Public Safety William Brandt  
Director of Public Services Leon Smith  
Building Official Dan Arlington  
Assistant to the City Manager Terry Klein  
Assistant to the Building Official Piper Turner  
Deputy City Clerk Karla Strait, CMC

ABSENT:

Mayor Richard A. Brown

Call to Order/Roll Call

Vice Mayor Gilbert called the meeting to order at 7:00 p.m. City Clerk Volpe stated Mayor Brown was out of town.

**COMMITTEE REPORTS**

IBBC

ISH BRANT BEAUTIFICATION COMMITTEE: City Manager Linn stated the Ish Brant Beautification Committee would be holding one meeting per month on the first Monday of the month in lieu of two.

**CITY MANAGERS PUNCH LIST**

Bike Path

BIKE PATH IMPROVEMENT: Neptune Beach Elementary School representatives were concerned about children walking to and from school because the sidewalk had been removed for the bike path installation. City Manager Linn referred the issue over to the Department of Transportation.

Utility Improvements

UTILITY IMPROVEMENT PROJECT: A construction meeting on the Utility Improvement Project was held on January 8, 2003. The minutes of that meeting had not been completed. He received an updated construction schedule today.

Kings Rd. Bridge

KINGS ROAD BRIDGE: The Kings Road bridge had to be temporarily closed last Thursday for a two-hour period for emergency repairs. Plans for the permanent repairs were under design. They should be received in the very near future and brought before the Council for approval. The construction period should be 90 days or less.

Councilor Weldon felt the bridge may need more extensive repairs and asked to place the issue on the February workshop agenda.

Councilor Pruette asked City Manager Linn to report at the February workshop meeting how many new homes were built in Jacksonville Beach in the past 5 years that are using the Kings Road bridge to access their property.

Underground  
Containers

UNDERGROUND TRASH CONTAINERS: The manufacturer of the underground trash containers confirmed the negotiations to trade the 7 large containers for 15 smaller containers that would be placed at the beach street ends. The smaller containers were 8 feet deep and held large plastic bags that would be emptied on a monthly basis.

Fire Hydrants

FIRE HYDRANTS REPLACEMENT PROGRAM: Starting in fiscal year 2002 to date a total of 75 fire hydrants had been replaced this included 37 new hydrants in Phase 1 of the water project. Outside of the water project east of Third Street south of Florida Boulevard 5 new hydrants had been proposed and 3 were proposed West of Third Street. Once the water project was completed an audit firm would test the hydrants and present an efficiency report.

"Sunday in the Park"

"SUNDAY IN THE PARK": Elaine Kenny volunteered to organize the "Sunday in the Park" event. The event would be held on April 13, 2003.

**PROPOSED ORDINANCES**

Unrelated Persons  
Occupying a Dwelling

ORDINANCE REGULATING UNRELATED PERSONS OCCUPYING DWELLING UNITS: Councilor Pruette proposed an ordinance that would limit the number of unrelated people living together in a single-family home with the definition of "family" clearly defined.

Vice Mayor Gilbert opened the floor to public comments.

Kelly Strong, 2031 Marye Brant Loop South, Member of the Homeowners Association for Secluded Woods stated owners were in favor of an ordinance to limit the number of unrelated people living together in a single-family home.

Dan Disch, 224 Florida Boulevard, was in favor of the ordinance.

Skip Small, 306 Bay Street, knew of at least one rental property that had eight people living together creating parking and noise problems. He favored anything that would limit the number of unrelated persons living together.

Marcia Coker, 206 Margaret Street, favored a limit on unrelated persons living together stating that high density rental property created inadequate parking, safety hazards, and noise in the early morning hours.

Lynda Padtra, 1113 First Street, favored an ordinance. She felt it would also aide the landlords in evictions. She questioned what the penalty would be and how it would be enforced.

Dr. Kyriakos Ioannides, 633 Valley Forge Road North, stated when he moved to Neptune Beach he expected to have neighbors. He did not expect to have a battalion of unrelated people living nearby in one household. He favored the ordinance.

Nicholas Cheremeta, 616 Oak Street, stated he had a problem with a number of unrelated people living together in the house behind his. He favored an ordinance.

Virginia Cauthon, 617 Valley Forge Road North, stated she had a problem with a number of unrelated people that lived together in the house next door to her. She favored an ordinance.

Beth Schultz, 608 Valley Forge Road North, favored an ordinance that would regulate the number of unrelated persons that shared a single-family dwelling.

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

Consensus: **TO HAVE THE CITY ATTORNEY DRAFT AN ORDINANCE DESCRIBING FAMILY – WITH NO MORE THAN THREE UNRELATED PERSONS LIVING TOGETHER IN A SINGLE FAMILY DWELLING – EXPLORE A CAP ON THE MAXIMUM NUMBER OF UNRELATED PERSONS SHARING A SINGLE FAMILY HOME BASED ON THE NUMBER OF BEDROOMS – SOMETHING THAT COULD BE ENFORCED.**

City Manager Linn stated Chief Brandt assured him they could enforce such an ordinance depending on how it was written. The violation should be on the landlord not the tenants. The landlord would have to evict the tenants and would also be levied a monetary fine.

Legal Advise City Attorney White asked the Council to think about allowing a transition period before it would take effect. He cautioned that an ordinance could be passed but it may difficult to enforce. He stated the focus should be on the landlord and not the tenant because the tenant may not be aware of the code violation.

City Manager Linn stated another difficult subject was the enforcement of seasonal rentals. Seasonal rentals were not allowed in Neptune Beach. He felt there should also be an ordinance that specified term limits on leases.

Consensus: **FORWARD TO THE FEBRUARY WORKSHOP MEETING.**

### **CONTRACTS / AGREEMENTS / NONE**

### **ISSUE DEVELOPMENT**

Development Order  
Seagate

**CONSIDERATION OF FINAL DEVELOPMENT ORDER, SEAGATE AVENUE – STEVE JARRETT:** Steve Jarrett explained he changed the plan from paving the street straight down to curving the street around the large oak trees. He felt 20' of pavement would be adequate for the atmosphere. He would also provide a park bench at the end of the cul-de-sac to encourage sightseers.

Councilor Pruette questioned how wide the buffer zone would be. Mr. Jarrett replied the buffer zone would be 15' all the way around. The 15' buffer zone met the criteria of the St. Johns Water Management District and the Army Corp of Engineers.

Councilor Pruette asked if it was possible for the road to reach further down toward the marsh. Mr. Jarrett answered he had an obligation to keep the traffic and sightseeing as much out of the backyard of Lot 5 as possible. He wanted to discourage the property owners from installing privacy fences to avoid obstructing views.

City Manager Linn stated Council should not be considering Lots 6 & 7 because they were in the jurisdiction of Jacksonville Beach and their Land Development Regulations were different. The height limit in Jacksonville Beach was 35' and Neptune Beach was 28'. He questioned how Mr. Jarrett would deal with that. Mr. Jarrett replied he would not

try to restrict Jacksonville Beach into complying with the Neptune Beach Code.

Councilor Pruette questioned the type of curbing. Mr. Jarrett answered the entire road would have a 16" wide ribbon curb. Around the cul-de-sac would be a "Miami Curb" which would contain and channel the water to drain into the retention.

Building Official Dan Arlington questioned the following:

- 1) Would the Water Management District determine the width of the buffer zone? Mr. Jarrett replied the development order was contingent on State and Federal permits.
- 2) The issue of private driveways on city right-of-ways had not been resolved.
- 3) The Comprehensive Plan directed the city to protect future existing waterways.
- 4) Would on street parking be provided? Mr. Jarrett replied no parking spaces would be provided on the road.
- 5) Two of the proposed lots were in Jacksonville Beach.
- 6) Who would supply the utilities? Public Works Director Leon Smith stated Neptune Beach would supply the water and Jacksonville Beach would provide the sewer.
- 7) The cul-de-sac would have to be longer than 600'. He recommended a 38' diameter cul-de-sac.

Consensus: **FORWARD TO THE FEBRUARY REGULAR MEETING FOR A VOTE.**

Recess/Reconvene

The meeting recessed at 8:30 p.m. and reconvened at 8:40 p.m.

Council Meeting  
Protocol

CITY COUNCIL MEETING PROTOCOL – COUNCILOR SHEALY: City Manager Linn stated the Council set the order of business by Resolution.

Discussion ensued regarding the order of public comments on the agenda. Council felt citizens should be heard on subjects before they were voted on by the Council and should be able to comment on subjects other than those on the agenda.

Consensus: **TO DRAFT A RESOLUTION CHANGING THE ORDER OF BUSINESS ON THE WORKSHOP AGENDA TO HEAR PUBLIC COMMENTS FIRST AND REMOVE "ON AGENDA ITEMS ONLY".**

Land Development  
Regulations

REVIEW OF LAND DEVELOPMENT REGULATIONS BY CITY COUNCIL – COUNCILOR WELDON: Councilor Weldon requested that the City Manager contact Ivey, Harris, and Walls, and negotiate a continuation of the original agreement to move forward with the Land Development Regulations Review. He felt the consultants that were originally selected should continue the process. City Manager Linn stated funds were not budgeted to renegotiate a contract with the consultants.

Consensus: **TO HOLD A WORKSHOP MEETING TO GET STARTED ON THE LAND DEVELOPMENT REGULATIONS ON FEBRUARY 10, 2003, AT 7:00 P.M. AND MOVE THE FEBRUARY WORKSHOP MEETING TO MONDAY, FEBRUARY 24, 2003.**

Traffic East  
Third St.

TRAFFIC PROBLEMS EAST OF THIRD STREET: Councilor Shealy was concerned about the traffic east of Third Street. Some of the streets that ran east and west had speed bumps and others did not. The traffic was being channeled to streets that did not have speed bumps. He felt once the water and sewer project was complete the traffic calming islands should control the problem on First Street. City Manager Linn stated there was a policy that considered the desires of all the residents before installing speed bumps.

Vice Mayor Gilbert opened the floor to public comments.

Geynell Moore, 225 Margaret Street, stated there was a speeding problem and a safety hazard on Margaret Street. She requested the city install speed bumps and have additional patrol.

Teresa Thomas, 226 Margaret Street, was concerned about overcrowding on Margaret Street.

Lynda Padra, 1113 First Street, favored traffic calming for all areas east of Third Street.

Consensus: **INSTALL SPEED BUMPS ON MARGARET STREET ACCORDING TO THE CITY POLICY.**

Seawood  
Fence

**REMOVAL OF FENCE ALONG SEAWOOD – CITY MANAGER DICK LINN:** City Manager Linn stated he was concerned about the safety of the deteriorating privacy fence on Seawood Drive that had been installed by the private developer. The City Attorney informed him it was not the city's responsibility to replace the fence. He recommended that Public Services determine if the fence was a safety hazard and remove it if it was. Councilor Pruette asked the City Manager's office to notify the neighbors abutting the fence before removing it.

Easement

**CONSIDERATION OF PERPETUAL EASEMENT – DONALD PADGETT:** Donald Padgett requested the city grant him access to his property through a 25' x 52.9' city easement located in the rear of his lot at 401 Margaret Street on the corner of Third Street and Margaret Street. This would allow access through the rear of the property via Margaret Street in lieu of Third Street.

Discussion ensued involving the city receiving due compensation for converting public property to private property and the possibility to surplus it.

Legal Advise

City Attorney White advised he would need an entire deed history of the parcel before the Council could make a decision. He would then review the deed history and prepare a list of options for the Council to consider.

Eminent domain

Councilor Pruette stated she had sent City Attorney White a memo on January 16, 2003, regarding questions from Roger Bennett. She asked the City Attorney to answer the following questions.

1. To whom and in what manner should an offer to purchase private lands for public uses or purposes described in the Florida Statutes Chapter 166.411? Mr. White's Answer: That is the eminent domain statute. It has to be pursued in the name of City and the City has to contact the property owner in private negotiations to see if anything can be done. It has to be initiated by the City with the approval of the Council to negotiate the purchase of property with the intention that if an agreement is not reached to purchase it then eminent domain proceedings would be initiated.
2. How should the Council proceed to acquire municipal ownership of private lands for public use and purposes in the event the private owner of those lands is unwilling to sell and convey title to such property? Answer: The same as question number one. If private negotiations do not work out your only alternative is to file the condemnation proceedings.
3. May the municipality exercise it's right of eminent domain to acquire private property described in Chapter 166.401 for the uses or purposes described in Chapter 166.411? Answer: Of course, those are certain enumerated uses. No

matter what the Statute says about what uses you can exercise eminent domain for, you still face the possible challenges of whether or not it is serving a public necessity regardless of what it is said it is being used for. It is not public demand or public desire that dictates what a piece of property can be used for. It is whether or not there is a reasonable public necessity for it.

4. Does the existence of an agreement to transfer ownership from a private landowner and another private owner preempt or prevent the municipality from proceeding to acquire ownership of such private lands for public uses or purposes described in Chapter 166.411. Answer: No, it does not prevent the City from doing anything. Does it raise the prospect of how much the City is going to have to pay? The only question is the determination of ownership on that property and how much the City is going to have to pay under eminent domain.
5. May a municipality seeking to acquire private lands for public uses or purposes make such offers to purchase contingent upon the availability of funding? Answer: No, legally it is haphazard at best. Budget wise it is a legal nightmare. Would the refusal of a private landowner to accept an offer containing funding contingencies from a municipality prevent the municipality from successfully proceeding with the exercise of eminent domain to acquire that property through civil suit? Answer: There is not going to be any type of contingent funding if a governmental entity is taking property without the consent of the property owner. By initiating those proceedings you are saying "you have the money" and you would have to deposit that money in court to get quick take and title to the property.
6. If an offer to purchase private lands for public uses or purposes is rejected, and pursuant to Florida Statute Chapter 73.021, and the municipality subsequently initiates petition to acquire such property through the exercise of eminent domain, may the municipality withdraw that petition and halt proceedings should their source of funds be found insufficient to compensate the private landowner? Answer: A municipality is never going to initiate eminent domain proceedings unless it has the funds to acquire the property. That is why you cannot have contingent funding for eminent domain. Would such a withdrawal of its petition due to a discovery of insufficient funding be considered defensible should an affected party subsequently file suit for monetary damages resulting from the mere initiation of condemnation proceedings? Answer: They can file suit for monetary damages and they would win and they would get attorneys' fees and cost.
7. May the municipality take possession and title to property it petitions to acquire through its right of eminent domain prior to the issuance or a final judgment by the court having jurisdiction in such proceedings? Answer: Absolutely, but it also requires the City to pay into the court registry its good faith appraised value of that property. Under no circumstances is eminent domain ever utilized based upon some potential source of funding or a contingent source of funding.
8. Do the legislative declarations found within Chapter 259.105 elaborate a legitimate public policy and rationale for the municipality to pursue public ownership of substantially undeveloped private lands when significant alteration and development of such lands is considered imminent? Answer: Chapter 259.105 is either the Florida Preservation or Florida Forever State Grant Program. First of all you have to get on a list. Then if the property is selected you have to figure whether or not you are going to get the money. You have to go through the appraisal process. It is all based upon the fact that the landowner is voluntarily agreeing to sell the property. The State programs are not used for condemnation proposes because they become expensive. It allows a municipality to go in a request public ownership of a property, but it presumes there is an agreement with the property owner to sell it.

**PUBLIC COMMENTS ON AGENDA ITEMS ONLY**

Public Comments

Teresa McMahon, 1032 Lincoln Road, asked the city to clear the potato vines in the greenspace on Seawood Drive behind her house. Her dog was getting sick from eating the potatoes that were falling from the vines into her back yard. She felt the city was not responsible to replace the deteriorating fence on Seawood Drive. City Manager Linn was asked to add this item to his punch list.

Roger Bennett, 1871 Nightfall Drive, asked council to consider the Code, in Chapter 22, Article 2 dealing with parking, stopping and standing in making a decision on Steve Jarrett's Seagate development.

John Henry David, 2035 Cherokee Drive, encouraged Council to allow Steve Jarrett to pave Seagate Avenue to the end and allow parking for a canoe and boat launch. He added that if speed bumps were placed on heavily traveled streets there would be major traffic accidents.

Bill Brockman, 1930 Seagate Avenue, felt the end of Seagate would not be a good place for a canoe launch because of the low tide. Wanted to keep the street end in its current quiet state.

Lajuan Kazmierczak, 2102 Acacia Road, felt public comments to stick to a particular subject. She favored speed bumps except for on main thoroughfares.

Julie Anderson, 1631 Arrowhead Trail, was concerned about the Seagate Subdivision and also felt public comments should be on each subject.

Janet Boone, 1936 Seagate Avenue, favored a natural well-balanced neighborhood at the end of Seagate Avenue.

Patricia Getz, 1359 Beach Avenue, Atlantic Beach, felt the property at the end of Seagate Avenue should be preserved for a canoe launch.

Adjournment

There being no further business, the meeting adjourned at 10:25 p.m.

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Richard A. Brown, Mayor

Attest:

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Lisa Volpe, CMC, City Clerk

Approved: \_\_\_\_\_