



**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**FEBRUARY 3, 2003, 7:00 P.M.**  
**CITY HALL, 116 FIRST STREET**  
**NEPTUNE BEACH, FLORIDA**

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Pursuant to proper notice a Regular Meeting of the City Council of the City of Neptune Beach was held February 3, 2003, 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 Clerk Lisa Volpe, CMC
Vice Mayor Jimmy Gilbert	Director of Public Services Leon Smith
Councilor Harriet Pruette	Building Official Dan Arlington
Councilor Larry Shealy	Assistant to the City Manager Terry Klein
Councilor John Weldon	Assistant to the Building Official Piper Turner
City Attorney Christopher A. White	Deputy City Clerk Karla Strait, CMC
City Manager Richard A. Linn	

Order Call/Pledge

Mayor Brown called the meeting to order at 7:00 p.m. and asked Councilor Pruette to lead the pledge of allegiance. He asked everyone to observe a moment of silence in memory of the seven astronauts who lost their lives in the space shuttle Columbia tragedy on February 1, 2003.

**AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS / NONE**

**APPROVAL OF MINUTES**

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

**JANUARY 6, 2003, REGULAR CITY COUNCIL MEETING**

Moved by Weldon, seconded by Gilbert.

Roll Call Vote:

Ayes: 5 – Gilbert, Pruette, Shealy, Weldon, Brown  
Noes: 0

**MOTION CARRIED**

**COMMUNICATIONS AND CORRESPONDENCE**

Vice Mayor Gilbert thanked City Manager Linn for the prompt attention in which the speed bumps were installed on Margaret Street.

Councilor Pruette stated she had not received an annual report that she requested in a memo to the City Manager. City Manager Linn responded the report was sent out last week.

### **CITY MANAGER REPORTS**

#### Water Project

**WATER UTILITY PROJECT:** The water project was at the final stage of pressure testing. If tested okay the entire system would be disinfected and a sample given to the Department of Environmental Protection. If the sample was bacteria free the service connections would then be made. The patch paving was to begin this week. The City Attorney was preparing the documents for the required easement at the intersection of Florida Boulevard and Penman Road. The open cut trenching had been subcontracted out. The project should be completed in three to four weeks.

#### Sewer Project

**SEWER UTILITY PROJECT:** The notice to proceed was given in January. The contractor had 90 days to start. The project would start at Seagate Avenue and move south to avoid interference with the water project.

### **PUBLIC COMMENTS**

Teresa Thomas, 224 Margaret Street, thanked the Council and City Manager for installing speed bumps on Margaret Street.

Marsha Coker, 206 Margaret Street, thanked the Council and City Manager for the prompt attention installing speed bumps on Margaret Street.

Ellen Cordy, 1929 Seagate Avenue, opposed having a public facility in her backyard on Seagate Avenue, stating she would not want her children playing outside with strangers lurking in the park. She added that if the Council voted in favor of the park they would be voting in the best interest of the City of Jacksonville and not the City of Neptune Beach.

Geynell Mohr, 225 Margaret Street, thanked council for installing the speed bumps and extra police patrol on Margaret Street. She hoped that special attention would also be given to the residents on Seagate Avenue.

Dennis McClendon, 1914 Seagate Avenue, opposed a park at the end of Seagate he felt it would create a traffic problem. He also had safety concerns for children.

Bill Brogdon, 1930 Seagate Avenue, stated the Council listened to a select group of people when acting to install speed bumps on Margaret Street. He felt the residents of Seagate Avenue deserved the same consideration as those on Margaret Street and they all favored Jarrett's development and were opposed having a park.

Lynda Padrta, 1113 First Street, opposed approval of the height variance appeal at 115 North Street stating there was no hardship for an upper deck. She favored a preserve over a park for the end of Seagate Avenue.

Debbie Fields, 1901 Forest Avenue, stated the property at the west end of Seagate Avenue was the last undeveloped property on the marsh in Neptune Beach and should be respected and left in its natural state.

Craig Fields, 1901 Forest Avenue, he did not want to see the property at the end of Seagate Avenue developed. He asked the Council to vote "no".

Bill Cissel, 1924 Seagate Avenue, favored the Jarrett development at the end of

Seagate Avenue. He stated the development would increase property value and increase in the tax base. He added the development would have to meet state and federal permit requirements and those agencies would not allow any danger to the wetlands. He asked the Council to keep their personal opinions out of the vote and vote in favor of the development.

Joanne Waddill, 115 Oleander Street, member of the Ish Brant Beautification Committee, stated she had spoken with Mike Middlebrook and he assured her the property would be a preserve because it was not big enough to be a park. She asked Council to adhere to the Code on the development. She also asked that the Ish Brant Beautification Committee be allowed to adopt and maintain the entire area of Seagate Avenue.

Nelson Humphrey, 1908 Seagate Avenue, favored Jarrett's development stating the west end of Seagate Avenue could not handle a park.

Hank Baltar, 2029 Sandpiper Point, member of the Planning & Development Review Board, felt a preserve would serve all citizens of Neptune Beach. He also felt Jarrett's development should be rejected because it did not follow the correct procedure or comply with city codes.

Mark Dillon, 1550 Kings Road, was involved in trying to create the Hopkins Creek Preserve to no avail because it was currently under development. He felt the property at the west end of Seagate Avenue should be preserved.

Sybil Ansbacher, 2008 Strand Street, Chairperson of the Board of Appeals, explained the Boards decision to deny the variance appeal for 115 North Street was based on there being no hardship. She added the Council originally set the height limit at 28' and the Board upheld that decision.

Roger Bennett, 1871 Nightfall Drive, felt Council did not have enough facts to make a decision in favor of the development because the plans had been amended at each review and were not complete.

Ron Powell, 1830 Nightfall Drive, also felt the Council did not have enough information to make a decision in favor of the development and they could only vote on what they expected it to be. He added it was prime property and deserved a prime development plan.

John Dawson, 1910 Seagate Avenue, stated that Mr. Steve Jarrett had more at stake than just a development because he intended to own one of the seven lots. He quoted Mayor Delaney in a newspaper article that read: "the City of Jacksonville had more parkland than any other city in the United States." He added that Mr. Jarrett had complied with everything the Council requested and his plans should not be delayed. He also had spoken with Mr. Middlebrook and was shown plans for a park not a preserve. He was assured the area would be made into a park and not a preserve.

Jeannie Jones, 630 Cherry Street, favored Jarrett's development over a park. She added that Mr. Jarrett had met all the Council's requirements. She had concerns about the Kings Road Bridge if a park was created. She asked the Council to vote "yes" for the development.

Tom Brannon, 2020 Tara Court, favored the Jarrett development. He asked the Council to vote "yes" for the development. He felt there would be no benefits in the property being a preserve.

Kerry Chin, 227A Margaret Street, thanked Council for taking action on the speed

bump issue on Margaret Street. He felt the Jarrett development did not follow proper procedure and should go through state and federal agencies before getting approval from the city.

Christine Chin, 227A Margaret Street, thanked Council for installing the speed bumps on Margaret Street. She felt the development procedure was out of order and the plans should be completed before it was approved.

Julie Anderson, 1637 Arrowhead Trail, encouraged Council to vote "no" and support the Board of Appeals decision on the height variance appeal for 115 North Street. She supported Ordinance No. 2003-01 giving notice of Planning & Development Review Board meetings. She felt the development order should follow procedure.

Rudolf Lowery-Ball, 1834 Nightfall Drive, felt development plans should go through the review system and be done correctly.

Janet Boone, 1936 Seagate Avenue, agreed with Mr. Dawson (above) stating Jarrett had first position as a buyer for the property at the west end of Seagate Avenue. She added that Mr. Jarrett had complied with Council requests and the Council had a moral responsibility to move forward with the development and not continue to change procedure to accommodate more requirements.

Leslie Karlin, 1506 Spindrift Circle West, supported the 28' height limit. She stated her experience with the Jarrett development behind Summer Sands found Mr. Jarrett difficult to work with. She felt the development plan should follow procedure and Council did not have enough information to vote in favor of it.

Sue Conley, 1864 Nightfall Drive, stated the issue should not be a "park" verses a "development." It was an issue of the development order. She felt the developer should be clear on what the development would be and follow the code.

LaJuan Kazmierczak, 2102 Acacia Road, favored the development now that Mr. Jarrett had offered to provide access to the intracoastal. She added it would also be a substantial increase in the city's tax base.

Recess/Reconvene Mayor Brown called for a recess at 8:25 p.m., the meeting reconvened at 8:40 p.m.

Jim Miller, 1633 Hopkins Creek Lane, stated Mr. Jarrett had presented conceptual plans and felt the Council should proceed and vote on the development order. As the city engineer he suggested implementing the master plan and getting all the houses on the south side of the Kings Road Bridge off septic tanks and on a master sewer system.

Tim Kazmierczak, 2102 Acacia Road, stated that if the development fell within city guidelines Mr. Jarrett should have the option to develop it. He was concerned about the weight of emergency vehicles on the Kings Road Bridge.

Sandy Leidy, 1810 Strand Street, felt the reason for the objections to the park was that people were unsure of what it would be. He stated he had spoken with Mr. Middlebrook and was informed verbally (not in writing) that the property would be preserved.

#### **CONSENT AGENDA / NONE**

#### **VARIANCES**

115 North St.

APPEAL OF VARIANCE REQUEST ON HEIGHT LIMITATION – 115 NORTH STREET: City Manager Linn explained this was an appeal for a height variance at 115 North Street that was denied by the Board of Appeals.

Michael Dunlap, architect for the project, explained building a three level home at a 28' height limit would not be attractive. The existing duplex on the property would be completely demolished. The owners wanted to construct a single family home with a third level deck that would exceed the 28-foot height limit by 4 feet. The plans met all other required setbacks. The basis for his appeal was there was not substantial competent evidence for the Board to deny the request. There was one vote on the Board in favor of the variance request. He added there were other issues in maintaining a variance other than being required to have a hardship.

Moved by Weldon, seconded by Pruette.

Motion: **TO DENY THE APPEAL AND SUPPORT THE DECISION OF THE BOARD OF APPEALS.**

Councilor Pruette stated she supported the decision of the Board of Appeals and asked City Attorney White to explain to the new members of the Council what the Council considered when hearing an appeal. City Attorney White responded the Council could only decide whether or not procedural due process was afforded the applicant and whether or not there was competent substantial evidence to support the Board's decision.

Vice Mayor Gilbert felt the height limitation in Neptune Beach was sacred. The citizens of Neptune Beach asked for the 28' height limit and he would deny any requests to exceed that limit until it was changed.

Councilor Weldon stated everyone would like to have an ocean view and that was the purpose of the deck. He added granting height variances would create towers all over the R-4 district that would allow for ocean views.

Mayor Brown stated it was a nice design but the height was not allowed. He called for the vote.

City Attorney White stated the motion should be either to reject or affirm the decision of the Board. So in this case the motion should be to affirm the decision of the Board of Appeals.

Moved by Weldon, seconded by Pruette.

Motion: **TO AFFIRM THE DECISION OF THE BOARD OF APPEALS.**

Roll Call Vote:

Ayes: 5 – Gilbert, Pruette, Shealy, Weldon, Brown.

Noes: 0

MOTION CARRIED

### **ORDINANCES**

Ord. No. 2003-01

ORDINANCE NO. 2003-01 – SECOND READ AND PUBLIC HEARING – SPONSOR COUNCILOR PRUETTE: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING SECTION 27-40(d), ADDING ADDITIONAL LANGUAGE RELATING TO NOTICE OF MEETINGS OF THE PLANNING AND DEVELOPMENT REVIEW BOARD AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown opened the floor for public comments.

Lynda Padra, 1113 First Street, commented that she was in favor of any improvements that would notify citizens of changes in their neighborhood.

There being no further comments the public hearing was closed.

Moved by Gilbert, seconded by Weldon.

Motion: **TO ADOPT ORDINANCE NO. 2003-01 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

Ayes: 5 – Gilbert, Pruette, Shealy, Weldon, Brown

Noes: 0

**MOTION CARRIED**

### **OLD BUSINESS**

Seagate

**FINAL DEVELOPMENT ORDER, SEAGATE SUBDIVISION – STEVE JARRETT:** City Manager Linn explained the history of the development order dating back to June 2002. Mr. Jarrett was considering subdividing the parcel at the west end of Seagate currently owned by Roberts Interests in June 2002. The development order was withdrawn at the developers request. The Planning & Development Review Board made a recommendation to the City Council in July 2002. The Council delayed action pending the abandonment of the right-of-way on Seagate Avenue. The request laid dormant until January 2003 at which time the developer requested it to be placed back on the agenda.

Building Official Dan Arlington made the following comments:

- 1) The issue of the natural buffer zone still was not resolved.
- 2) The driveway on the end was not resolved unless Council considered it was city property. Mr. Arlington thought it still appeared to be private property.
- 3) There will be no on street parking.
- 4) The cul-de-sac was over 600 feet.
- 5) The cul-de-sac width, actual paved radius, had been corrected.
- 6) The city right-of-way would have 120 feet in diameter, but it was the same as the pavement.
- 7) If the road is widened then the existing road should also be widened.
- 8) He thought lot 3 and 5 would require variances.

City Manager Linn asked Mr. Arlington to elaborate on the natural buffer zone. He understood the developer had to acquire a permit from the St. Johns River Water Management District and he was not sure that would satisfy the city ordinance for wetland protection. Mr. Arlington responded the ordinance stated to protect and not allow development to occur on the wetlands.

Councilor Shealy asked Mr. Arlington if previous developments were held to the same standards or if precedence had been set. Mr. Arlington responded previous developments were not held to the same standards.

Moved by Gilbert, seconded by Shealy.

Motion: **TO ACCEPT THE DEVELOPMENT ORDER PROVIDED THAT ALL THE NECESSARY PERMITS ARE IN PLACE FROM THE VARIOUS AGENCIES THAT PERTAIN TO WETLANDS, DRAIN STORMWATERS, WHATEVER UTILITIES ARE DESIRED.**

Councilor Weldon read the following prepared statement:

Our Council will seldom have an opportunity like this one to positively influence the direction of land development at the beaches. I will vote to deny this development application for the following reason; first, it is not compliant with the Land Development Regulations of Neptune Beach. The proposed cul-de-sac far exceeds the 600-foot maximum length specified in our Code. Some may argue that we have waived this provision in the past. I assert that we are under no obligation to waive it tonight. Each of these applications are judged on their own merits. Precedent is not an issue. Second, this proposal does not offer adequate wetland buffer zones. The Hopkins Creek estuary has been designated a conversation area by Neptune Beach. It should be and must be protected from residential fertilizer and pesticide runoff. This application does not offer any guarantee of buffer zone width in fact it proposes to fill some adjacent wetlands. Third, the proposed platting of the site will encourage variance applications by eventual property owners. The applicant has essentially agreed on the record that this was the case. This runs counter to Council responsibility in approving final development orders. Why would we approve a proposal only to have it modified by the Board of Appeals. Finally and most importantly, the proposed design of this sight will actively discourage if not deny public access to the intra coastal waterway at the western end of the Seagate right-of-way. Once homes have been constructed and landscaping has grown in this will not look like a street end. Furthermore, there will be no place for the public to park. I will vote no on this proposal and I encourage my fellow council members to do likewise. We are well within our authority to do so.

Councilor Pruette had reservations. She did not believe the Code had been followed from the very beginning of the development. She felt more information was needed to make a decision.

Mayor Brown felt the Council needed to be in the position that the development met all the Codes and at that point there would be nothing else to debate.

Councilor Shealy stated the people that were most effected were in favor of the development. The motion was contingent upon approval from the state and federal agencies. He was concerned about the second position contract on the property. He supported the motion to move forward with the contingencies.

Vice Mayor Gilbert stated when the development order was first reviewed it was contingent upon abandonment of the city right-of-way. The Council deferred action at that time. Then a representative came forward to explain another use of the property should the current plans not be approved. That put Mr. Jarrett in a position to take immediate action at which time he proposed plans that did not require abandonment of the city right-of-way. Comments were then made regarding park benches and the road not stopping before the driveway at which point Mr. Jarrett complied and extended the road past the driveway. The reason the development order did not follow procedure was because the Council asked for changes. To gain approval of other agencies on development orders had not been protocol in Neptune Beach for the past three years. To set that protocol now was unfair and a burden on the contractor who had every right to develop the property without consideration of an alternate use of the property. The reason the plans were not complete was the City's responsibility. Vice Mayor Gilbert concluded the Environmental Protection Agency would not allow anyone to destroy the property and it was not right to delay the development in any manner.

Councilor Weldon asked the Chair to recognize Mr. Jarrett.

Steve Jarrett stated he submitted a fully engineered set of plans for the development. The Council requested him to make changes and he complied with those requests. The Council has acknowledge in the past the Code was out of sync with reality and the

procedure should be changed to grant final development orders contingent on all other permits being received. The Council at the workshop meeting waived having the plans reviewed again by the Planning & Development Review Board. The plans were in compliance and he was in the process of obtaining environmental permits. Mr. Jarrett was unsure what the delay was and asked the Council what they wanted him to do and why they felt the plans were not in compliance.

Mayor Brown stated if the plans were code complaint there was not an issue.

Vice Mayor Gilbert stated he asked Building Official Dan Arlington to ask Mr. Jarrett to answer any unresolved questions at the workshop meeting. Mr. Jarrett provided answers to his questions at that time. Councilor Gilbert called a point of order to take a vote.

City Attorney White brought to the Council's attention that the City's Planning & Development Code was not the best. The process under Section 27-76 stated "site plan approval of the final development shall be required in all instances in all districts except where requirements for submittal of development plans are waived by the City Council in acting upon written recommendations submitted by the Planning & Development Review Board." He advised that through its action Council sometimes waived certain procedural compliance under the Code by acting on written recommendations of the Planning & Development Review Board.

Motion: **TO APPROVE THE DEVELOPMENT ORDER CONTINGENT UPON THE FOLLOW UP PERMITS FROM THE VARIOUS AGENCIES, WHATEVER OTHER PERMITS ARE REQUIRED BY MR. JARRETT IN ORDER TO RECEIVE A PERMIT FROM THE CITY OF NEPTUNE BEACH.**

Roll Call Vote:

Ayes: 2 – Gilbert, Shealy

Noes: 3 – Pruette, Weldon, Brown

MOTION FAILED

### **NEW BUSINESS**

Special Event

**REQUEST FOR A SPECIAL EVENT – IDS – JAMES W. INGALLS:** City Manager Linn stated he had met with Mr. Ingalls prior to the holidays and asked him to present the event to the Planning & Development Review Board for a recommendation. The PDRB recommended approval of the one time special event. The event would be held in the parking lot of the Sea Horse Motel on April 25<sup>th</sup>, 26<sup>th</sup>, and 27<sup>th</sup>.

Moved by Gilbert, seconded by Shealy.

Motion: **TO APPROVE.**

Councilor Weldon asked if alcoholic beverages would be served. City Manager Linn replied alcoholic beverages would be served under the Sea Horse Motel's license.

Councilor Weldon questioned who would be competing.

Mr. Ingalls, representative for IDS, stated the original format was to have high school students compete. However, upon investigation the Florida High School Athletic Association informed they did not allow teams to compete out of season. He then approached the U.S.A. Volleyball Florida Region office and they agreed to aide in identifying 8 teams of men and 8 teams of women to compete. There would be an entry fee for participants. Finals would be held on Sunday and cash prizes would be

awarded.

Councilor Pruette asked City Manager Linn to inform the Town Center Board of the event.

Councilor Weldon felt the city would be endorsing a commercial event to benefit the sponsors. He asked what the benefits would be for Neptune Beach. He also had concerns relating to parking, police protection, and crowd control.

Jim Ingalls responded the event would attract more visitors to Neptune Beach on the weekend of the "Opening of the Beaches". They had approached businesses in the area to participate and allow parking in their lots. He had included the cost of police protection using Neptune Beach police officers in the budget. He had obtained a permit from the Department of Environmental Protection and approached the Army Corp of Engineers relating to the sand for the volleyball court and its disposal. The Green Market agreed to relocate that Saturday. The bands would not play past 10:00 p.m. and the event would end at 11:00 p.m. on Friday and Saturday nights. The entire event would shut down Sunday at 6:00 p.m.

Councilor Weldon questioned insurance and liability. Mr. Ingalls replied IDS was required to carry a one million dollar policy and would provide insurance to the City and the Sea Horse Hotel.

Councilor Weldon suggested council consider approving the concept only and gather more details, including approval from the Town Center Agencies before approving the event.

Roll Call Vote:

Ayes: 4 – Gilbert, Pruette, Shealy, Brown

Noes: 1 – Weldon

MOTION CARRIED

Res. No. 2003-01

RESOLUTION NO. 2003-01 – SETTING THE ORDER OF BUSINESS FOR COUNCIL MEETINGS; RESOLUTION ESTABLISHING THE ORDER OF BUSINESS FOR THE CITY COUNCIL WORKSHOP MEETINGS.

Moved by Shealy, seconded by Weldon.

Motion: **TO APPROVE**

Roll Call Vote:

Ayes: 5 – Gilbert, Pruette, Shealy, Weldon, Brown

Noes: 0

MOTION CARRIED

Res. No. 2003-02

RESOLUTION NO. 2003-02 – APPOINTMENT OF BOARD MEMBERS; RESOLUTION APPOINTING BOARD MEMBERS TO THE CODE ENFORCEMENT BOARD AND THE PLANNING AND EDEVELOPMENT REVIEW BOARD.

Moved by Weldon, seconded by Shealy.

Motion: **TO APPROVE RESOLUTION NO. 2003-02**

Roll Call Vote:

Ayes: 5 – Gilbert, Pruette, Shealy, Weldon, Brown

Noes: 0

MOTION CARRIED

Tradewinds Plaza

REQUEST FOR FINAL DEVELOPMENT ORDER – TRADWINDS PLAZA – 1501 – 1589 ATLANTIC BOULEVARD FOR INSTALLATION OF AN AUTOMATED TELLER MACHINE: City Manager Linn stated the Planning & Development Review recommended approval of the development order. He requested landscaping around the ATM. Mr. Grubbs agreed to provide landscaping.

Moved by Gilbert, seconded by Weldon.

Motion: **TO APPROVE**

Roll Call Vote:

Ayes: 5 – Gilbert, Pruette, Shealy, Weldon, Brown

Noes: 0

MOTION CARRIED

Adjournment

There being no further business, the meeting adjourned at 9:45 p.m.

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Richard A. Brown, Mayor

ATTEST:

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Lisa Volpe, CMC, City Clerk

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