



MINUTES
WORKSHOP CITY COUNCIL MEETING
AUGUST 18, 2003, 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 August 18, 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 James Gilbert	Public Safety Director William Brandt
Councilor Harriet Pruette	Director of Public Works Leon Smith
Councilor Larry Shealy	Director of Finance Steve Ramsey
Councilor John Weldon	Assistant to the City Manager Terry Klein
City Manager Richard A. Linn	Deputy City Clerk Karla Strait, CMC

Call to Order/Roll Call Mayor Brown called the meeting to order at 7:00 p.m. and welcomed Boy Scout Troop # 623 Committee Member Ron Stafford and his scouts. The scouts present were working on earning their communication merit badge.

COMMITTEE REPORTS

IBBC ISH BRANT BEAUTIFICATION COMMITTEE: The Ish Brant Beautification Committee was in recess for the summer.

CITY MANAGERS PUNCH LIST

Water Impr. UTILITY IMPROVEMENT PROGRAM – WATER PROJECT: The water utility improvement program was 100% complete. The punch list would be completed by the end of the week. Liquidated damages and penalties totaling \$123,000 would be subtracted from the contract amount in the final payment.

Sewer Impr. UTILITY IMPROVEMENT PROGRAM – SEWER PROJECT: The contractor received the permit from the Florida Department of Transportation and was ready to begin work on Third Street.

Councilor Pruette stated muck and dirt was blocking the stormwater drainage on the east side corner of Cherry Street and First Street. She asked City Manager Linn to have the area cleaned up. Mr. Linn responded he would advise the field inspector of the matter.

City Clerk Lisa Volpe informed the Council the September Regular Meeting would be held on Tuesday, September 2, 2003. City Hall would be closed that Monday in honor of Labor Day.

City Manager Linn stated the City received a check from Jacksonville Transportation Authority in the amount of \$22,000 for reimbursement of cost and expenses incurred from the Mayport Flyover condemnation proceedings.

Minor Replat
Bay St.

Mayor Brown stated the public had comments regarding the Bay Street Minor Replat. He City Attorney White to share some additional information with the public regarding said replat.

For the Record

City Attorney White read for the record the following letter he addressed to the City Manager early today:

I participated this morning in a telephone conference with Robert Persons, Russell Stuart's attorney; (Mr. Persons and Mr. Stuart are in the audience tonight). In that conference we discussed the provisions of Section 27-474 and I informed Mr. Persons that if roadway improvements were to be required by the city on an unopened right-of-way the developer would be responsible for all necessary roadway improvements.

In reviewing the supplemental information we have received on what would be required by and, therefore, would be the responsibility of the developer on the subject right of way, the proposed development would fall outside the parameters of a minor replat and would instead require development plan review.

I have informed Mr. Persons of this fact and have told Mr. Persons that, as the minor replat has not been recorded, the subject minor replat will be withdrawn and disapproved with instructions to the developer that, if he so chooses, he may proceed through the applicable development review procedures in the Code.

PUBLIC COMMENTS

Ellis Johnson, 1106 Hagler Drive West, stated the tenants occupying 1121 Florida Boulevard, directly behind his house, continued to have disturbing parties after the police had been called. The tenants also had dogs that barked during the night.

Anne Olsen, 1101 Hagler Drive West, stated she was also disturbed by the late night parties and barking dogs at 1121 Florida Boulevard.

Bee Jay Lester, 907 Second Street, favored the Council placing a moratorium on the development of beach accesses.

John Henry David, 2035 Cherokee Drive, was concerned about preserving the beach accesses and felt more beach parking should be provided for the public.

Sandy Leidy, 1810 Strand Street, felt the minor replat on Bay Street should not have been granted because in 1997 the citizens voted to save and protect the beach accesses.

Robert Persons, 2215 South Third Street, Attorney for Russell Stuart who requested and was granted the minor replat on Bay Street, stated Mr. Stuart felt there was a misconception concerning what he wanted to do with the property. He had no intent or desire to ask the city to close, vacate, abandon or restrict the beach access right-of-way. He was only requesting ingress and egress from a

dedicated public roadway to the property he was purchasing.

Mary Ann Padrta, 1030 Second Street, favored the noise ordinance but felt the fine for the third offense should be increased to \$500.00.

Darcia Davidson, 106 Bay Street, felt the City Manager was bullied into granting the minor replat on Bay Street. She also felt because the minor replat involved a beach access council and the public should have been included in the decision.

Christine Chin, 227-A Margaret Street, asked the council to keep the beach accesses green. She read a letter from her husband, Kerry Chin, regarding "conservation" and "legacy" of the city.

Kathy Durkin, 809 Camellia Terrace Drive North, was concerned that the minor replat was granted by the City Manager after being denied by the Planning & Development Review Board. She favored preserving the beach accesses.

PROPOSED ORDINANCES

Minor Replat

ORDINANCE NO. 2003-XX, MINOR REPLAT – COUNCILOR PRUETTE: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27, DIVISION 4, MINOR REPLAT REQUIREMENTS, AMENDING SECTION 27-108(b) REVIEW PROCEDURES; AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown informed the concerned citizens that the Council was not given the privilege of ignoring the Code of Ordinances and the minor replat was acted upon in accordance with the current Code. He added that Council had the power to take action to legally correct any flaws in the code and they were considering an amendment to the minor replat ordinance.

Councilor Pruette stated the issue was brought to the Council because of the price of property and the density east of Third Street. She felt the Council should have been involved in the minor replat decision because the road would need to be extended in order to access the property.

Mayor Brown stated the beach access was not in any way threatened by the extension of Bay Street and public use of the access was very well protected by the referendum.

Councilor Weldon believed the 1997 referendum may have been technically flawed by not specifying electors did not want ocean accesses developed at all. He felt the City Manager should have the authority to make minor replat decisions and changing the ordinance to have Council approve all minor replats was not necessary. He asked to include the following ordinance establishing a moratorium on development of ocean accesses in the discussion.

Beach Access
Moratorium

ORDINANCE NO. 2003-XX, ESTABLISHING A MORATORIUM ON DEVELOPMENT OF OCEAN ACCESSES – COUNCILOR WELDON AND COUNCILOR PRUETTE: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING THE EXISTING CHAPTER 18, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ADDING SECTION 18-2, MORATORIUM ON DEVELOPMENT OF OCEAN ACCESSES, AND PROVIDING AN EFFECTIVE DATE:

Councilor Shealy stated the Council needed to study the issue carefully.

Councilor Weldon agreed the issue needed to be studied carefully and a moratorium on beach access development should be imposed until a conclusion was arrived.

Mayor Brown was concerned if the Council passed an ordinance for minor replats to be approved by the Council the city may face dealing with laws of private property.

Councilor Pruette supported the moratorium on the development of beach accesses until the Council gathered enough information to make a good decision. She suggested conducting a study of the number of lots abutting beach accesses, the size of those lots and whether or not they could be subdivided.

City Attorney White stated a study would need to begin with the original dedication of the street ends and would require a title search because it would be difficult to find the old records. It would be necessary to first review the language in the dedications and second to review all related ordinances since the dedications.

City Manager Linn stated whether the minor replat had to be approved by the Council or the City Manager the decision could not have been different. In the past 6-½ years he had only received two requests for minor replats.

Mayor Brown asked if the Council was in favor of approving all minor replats, only those east of Third Street, or only the oceanfront lots.

City Attorney White stated issues relating to minor replats on beach accesses would be resolved if Council imposed the moratorium. A moratorium was temporary in nature and implemented to address a larger issued. A cut off date for existing conditions and a time period for the moratorium would need to be set. The moratorium could possibly be challenged by injunctive relief.

Councilor Weldon suggested a cut off date of August 15th.

Councilor Shealy agreed to move the ordinance on minor replats aside and move forward with the moratorium to stop development on beach accesses.

Vice Mayor Gilbert agreed with placing a moratorium on beach accesses and asked to keep in mind the accesses to the intracoastal as well. He added for absolute protection of the beach accesses they could be dedicated as parkland.

Mayor Brown asked the Council what would be good time period for the moratorium.

Vice Mayor Gilbert suggested 12 months. He questioned if the time period could be repealed.

City Attorney White advised the language in the ordinance stated that the moratorium should remain in place for a period of blank months from the date of it's enactment unless earlier repealed.

Consensus: **TO MOVE FORWARD WITH THE MORATORIUM – FILLING IN THE DATE AS OF AUGUST 18TH.**

Consensus: **NOT TO PURSUE THE CHANGE IN THE MINOR REPLAT.**

Councilor Weldon stated he felt the minor replat on Bay Street was improperly handled by the staff.

Mayor Brown stated the first legal opinion from the City Attorney stated the City Manager shall approve the minor replat and the second and revised legal opinion stated the staff handled it improperly.

Councilor Pruette stated Mr. Gregory Scott had requested access to his property off of Cedar Street. In a letter dated April 11, 2002, the City Attorney stated the lot did not fall within the definition of a corner lot and Mr. Scott was denied the use of the right-of-way.

Mayor Brown felt Councilor Pruette's comment was not relevant because Mr. Scott had an alternate access available.

Councilor Weldon stated Mr. Stuart could have access through Azalea Street if he could acquire the property. He stated functional abandonment had occurred on Bay Street access and he was also concerned about the remaining accesses.

Recess/Reconvene

Mayor Brown called a recess at 8:10 p.m. and reconvened the meeting at 8:25 p.m.

Noise Ord.

ORDINANCE NO. 2003-XX, NOISE PROHIBITED – COUNCILOR PRUETTE AND COUNCILOR SHEALY: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING SECTION 13-5, CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH AND PROVIDING AN EFFECTIVE DATE.

Councilor Shealy stated the ordinance would give police the tools needed for enforcement and hold people responsible for their actions. He suggested a fine of \$100 for the first offense, \$250 for the second and \$500 thereafter.

City Attorney White stated paragraph c of the ordinance included that on top of the fines the violator would also have to pay administrative fees imposed by the Clerk of Court.

City Manager Linn stated the \$200 filing fee could be avoided if the fine was paid to the Public Safety Department within 10 days.

Discussion ensued regarding the amount of the fines.

Councilor Weldon voiced concern regarding barking dogs. City Manager Linn stated the Animal Control Ordinance Chapter 6.64, Habitual Nuisance, addressed barking dogs.

Chief Brant added the ordinance was very similar to surrounding cities and could be enforced with using the officer's discretion.

Mayor Brown suggested allowing fair warning to the residents by placing information regarding the ordinance and fines in the monthly city newsletter.

Consensus: **MOVE THE NOISE ORDINANCE FORWARD WITH FINES OF \$50 FOR FIRST OFFENSE, \$150 FOR SECOND OFFENSE AND \$250 FOR THE THIRD ADDING THAT THE VIOLATOR WAS RESPONSIBLE FOR THE CLERK OF COURT FILING FEES.**

Abandon Vehicles

ORDINANCE NO. 2003-XX, ABANDONED VEHICLES – VICE MAYOR GILBERT: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 22, SECTION 22-35(a)(b) ADDING SECTION 22-35(c)(d)(e) ABANDONED VEHICLES.

Vice Mayor Gilbert stated under the current Code an abandoned vehicle could be removed temporarily to be in compliance with the Code. The proposed ordinance would allow abandoned vehicles to be towed after a 10-day notice and give closure to repetitive violations.

Consensus: **MOVE THE ABANDON VEHICLES ORDINANCE FORWARD.**

Building Code

ORDINANCE NO. 2003-XX, AMENDING CHAPTER 8, BUILDING AND BUILDING REQUIREMENTS – VICE MAYOR GILBERT: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA, BY REPEALING ARTICLE II. BUILDING CODE, ARTICLE III. ELECTRICAL CODE, ARTICLE IV. PLUMBING CODE, ARTICLE V. MECHANICAL CODE, ARTICLE VI. GAS CODE AND ARTICLE VII. COASTAL CONSTRUCTION CODE. EXCEPT FOR DIVISION 3, AND MOVING OF STRUCTURES OF ENTIRETY AND SUBSTITUTING THEREFORE A NEW ARTICLE II ADOPTING THE FLORIDA BUILDING CODE BY REFERENCE, REPEALING ARTICLE VII SUBSTANDARD HOUSING AND SUBSTITUTING THEREFORE A NEW ARTICLE III. PROPERTY MAINTENANCE CODE ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE, AS AMENDED, BY REFERENCE, TO REPEAL ORDINANCES IN CONFLICT HEREWITH, TO PROVIDE AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Vice Mayor Gilbert stated the Unified Building Code was adopted March of 2002 by the State of Florida to replace the Southern Building Code. Therefore cities were now required to adopt the Unified Building Code.

City Manager Linn stated the new Unified Building Code was developed over a 5-year period and only recently made available to the city.

Councilor Weldon asked for an assessment and opinion of the changes from the building official.

Consensus: **MOVE THE BUILDING REQUIREMENT ORDINANCE FORWARD.**

CONTRACTS / AGREEMENTS

Kings Rd. Bridge

DESIGN PROPOSAL – KINGS ROAD BRIDGE REPLACEMENT, PITMAN – HARTENSTEIN: City Manager Linn stated the Council agreed to move forward with the planning of the Kings Road Bridge Replacement. The existing contract with Pitman-Hartenstein was updated to \$171,580.06. The decision of the council was to accept the updated amount or to solicit bids for the design.

Councilor Weldon questioned the amount Pitman-Hartenstein had already been paid. City Manager Linn replied the original contract was for \$63,466 and Pitman-Hartenstein had been paid all but \$8,885.24.

Councilor Weldon felt \$171,580.06 was too much money to design a small one-lane bridge. He felt the city should solicit competitive bids.

Consensus: **TO ADVERTISE REQUEST FOR PROPOSALS AND INCLUDE A NOT TO EXCEED AMOUNT.**

City Manager
Employment Contract

CITY MANAGER'S EMPLOYMENT CONTRACT: City Manager Linn informed the Council he planned to retire March 15, 2004 and would like to continue his contract through to that date. He wanted to be an instrument in the hiring of a new City Manager and at the same time protect his financial interest.

City Attorney White stated the proposal from the City Manager was to have his contract effective through March 15, 2004.

Mayor Brown supported the proposal adding that it allowed the Council ample time to find a replacement for Mr. Linn. It would eliminate the urgency and proceed in an orderly

manner.

Vice Mayor Gilbert also found the proposal acceptable that it gave time to search for a replacement. He felt it would be in the best interest of the city to accept the proposal.

Councilor Weldon questioned Mr. Linn's significance of the March 14, 2004 date. City Manager Linn responded he would be fully vested in his retirement plan as of March 7, 2004. He added he would lose \$3,800 of retirement benefits if he left prior to that date.

Councilor Weldon stated if Mr. Linn left at the present time the city would be obligated to pay him through to the second 90 day cycle in January which would amount to 2 months of salary and \$3,800 in vested retirement. Councilor Weldon was prepared to go along with the proposal with the option of moving forward with the replacement once one was found.

Mayor Brown stated not every city had the opportunity to look for a new City Manager while having one employed. He felt it would be an advantage to the city to accept Mr. Linn's proposal.

Councilor Pruette was dissatisfied with the proposal. She stated Mr. Linn had asked to renew his contract under various time limits. She felt the Council should be informed of issues in writing prior to meetings and wanted to see the city manager's proposal in writing.

City Manager Linn stood and passed out an envelope to each council member.

Councilor Pruette called for a point of privilege to review whatever was in the envelope.

Recess/Reconvene

Mayor Brown called a recess at 9:15 p.m. The meeting reconvened at 9:25 p.m.

Discussion ensued regarding the City Manager's performance and his proposal.

Councilor Shealy felt after tonight it would be difficult for Mr. Linn to work with the Council. He recommended accepting the resignation effective October 7, 2003 which would carry through to January 7, 2004.

City Attorney White – not talking about resignation – would be terminating the contract. The termination notice would have to be in writing before October 7, 2003.

Weldon asked for a consensus to give Mr. Linn termination notice effective October 7, 2003. He was prepared to negotiate the \$3,800 in question regarding the retirement and pay through the obligated period.

Consensus: **TO GIVE MR. LINN TERMINATION NOTICE EFFECTIVE OCTOBER 7, 2003 AND NEGOTIATE THE \$3,800 REGARDING HIS RETIREMENT.**

City Manager Linn stated his existing contract was in force through January 7, 2004 and he would abide by all terms of the contract and expected the Council to do the same. He did not wish for any concession for his retirement. He reminded the Council that he had over 3 months of personal leave.

City Attorney White reminded the Council that no action was being taken tonight. Any action would be addressed at the September meeting.

Consensus: **TO CONSIDER A TERMINATION ON THE CITY MANAGER'S CONTRACT AT THE SEPTEMBER REGULAR COUNCIL MEETING.**

PQH Arch.

CONSTRUCTION ADMINISTRATION SERVICES CONTRACT, PQH ARCHITECTS:
PQH Architects submitted a proposal to handle the construction administrative services for the construction of the new public services facility. City Manager Linn recommended moving the proposal to the September regular meeting consent agenda.

Councilor Pruette questioned the cost of construction. City Manager Linn replied a change order was signed for a total contract price of \$2,184.00.00 for the construction.

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

ISSUE DEVELOPMENT

Mayor Brown met with the secretary of the Department of Transportation regarding the Hopkins Creek Project. The amount offered to the city to take ownership of the creek was based on the 1,000 feet project. He committed that the FDOT would increase the landscaping to help satisfy the community. He asked to place the Hopkins Creek Project on the agenda for the September regular meeting.

Adjournment

There being no further business, the meeting adjourned at 9:46 p.m.

Richard A. Brown, Mayor

Attest:

Lisa Volpe, CMC, City Clerk

Approved: _____