



MINUTES
REGULAR CITY COUNCIL MEETING
SEPTEMBER 2, 2003, 6:07 P.M.
CITY HALL, 116 FIRST STREET
NEPTUNE BEACH, FLORIDA

Pursuant to proper notice a Regular Meeting of the City Council of the City of Neptune Beach was held September 2, 2003, at 6:07 p.m., in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida.

Attendance

IN ATTENDANCE:

Mayor Richard A. Brown	Master Sergeant Anthony Carrillo
Vice Mayor Jimmy Gilbert	Comm. Development Director Jason Cleghorn
Councilor Harriet Pruette	Assistant to the City Manager Terry Klein
Councilor Larry Shealy	Building Official Tony Perez Guerra
Councilor John Weldon	Director of Finance Steve Ramsey
City Manager Richard A. Linn	Director of Public Services Leon Smith
City Attorney Christopher A. White	Deputy City Clerk Karla Strait, CMC
City Clerk Lisa Volpe, CMC	Assistant to the Building Official Piper Turner

Order Call/Pledge

Mayor Brown called the meeting to order at 6:07 p.m. and led the pledge of allegiance.

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS / NONE

APPROVAL OF MINUTES

Motion: **TO APPROVE THE FOLLOWING MINUTES:**
AUGUST 4, 2003, REGULAR CITY COUNCIL MEETING
AUGUST 11, 2003, BUDGET CITY COUNCIL MEETING
AUGUST 18, 2003, WORKSHOP CITY COUNCIL MEETING

Moved by Gilbert, seconded by Shealy.

Roll Call Vote:

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

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Mayor Brown asked to place the issue of landscaping the area surrounding the water plant in Jarboe Park on the September workshop agenda.

Councilor Pruette questioned when the palm trees on First Street would be trimmed.

Director of Public Services Leon Smith replied the trees on First Street were trimmed once a year and he would check with Public Works Supervisor Paul Williams in regards to the next scheduled trimming.

Councilor Pruette asked City Manager Linn if FDOT had responded to his request to clean the ditch around Fifth Street and Fletcher High School. City Manager Linn stated he had not received a response from FDOT.

Councilor Shealy asked what would be done with the old fire hydrants. Director of Public Safety Leon Smith stated they should be removed in approximately one month.

City Manager Linn introduced the new Community Development Director Jason Cleghorn to the Council.

City Clerk Lisa Volpe reminded the Council a budget meeting was scheduled for next Monday night at 6:00 p.m. to set the millage rate.

CITY MANAGER REPORTS

- Water Project WATER IMPROVEMENT PROJECT: The water improvement project was 100% complete.
- Sewer Project SEWER IMPROVEMENT PROJECT: The contractor had received the permit from FDOT and started the work in the Third Street right-of-way. The pump station at Orange Street and First Street was installed and functioning. The project was moving along on schedule.
- City Yard Project CITY YARD PROJECT: The contractor was given notice to proceed on the 300-day project last week and the large building had been demolished.

PUBLIC COMMENTS

- Public Comments Karl Sanders, attorney representing Mr. Kawasaki asked the Council if he would be given the privilege to speak on V03-21 later on the agenda or if he should speak during the public comments. Council responded they would allow him to speak on the agenda item.
- Sandy Leidy, 1810 Strand Street, was concerned that the meeting started before 7:00 p.m. and not many people were present.
- Council agreed to recess the meeting.
- Recess/Reconvene Mayor Brown recessed the meeting at 6:20 p.m. and reconvened the meeting at 6:47 p.m.
- Sandy Leidy, 1810 Strand Street, voiced concern regarding protection of the beach accesses and avoiding high-rise buildings being built on the beach.
- Mary Ann Padrta, 1030 Second Street, was concerned because animal control was not readily available when dogs were roaming freely in her neighborhood.
- Bob Shimp, 1109 First Street, recommended the Council support City Manager Linn's request to retire in March allowing him the respect he deserved.
- Edith Alcorn, 317 Oceanwood Drive, supported the City Manager's retirement in March allowing him his full retirement benefits and a smooth transition between city managers.

Todd Brown, 1512 Strand Street, felt the motion to reconsider the Council decision to affirm the denial of Variance V03-21 was not valid. He asked the Council to support the Board of the Appeals decision to deny the request and withdraw the motion to reconsider.

Sandra Brinson, 1512 Strand Street, read a letter from Clair Zaiser disapproving the Council's reconsideration of the denial of variance V03-21. She asked the Council to withdraw the motion to reconsider.

Karl Sanders, attorney representing Mr. Kawasaki explained there was a legal distinction between a motion for rehearing and a motion to reconsider. A motion for rehearing was a procedure to rehear a judicial matter under certain circumstances. A motion to reconsider was a legislative term that allowed a legislative body to reconsider their position on anything at the following meeting. City Attorney White stated the Neptune Beach Code was different. Mayor Brown stated he would call on Mr. Sanders if the Council had any questions when the variance was discussed.

CONSENT AGENDA

PQH Architects

AWARD OF CONSTRUCTION ADMINISTRATION SERVICES CONTRACT TO PQH ARCHITECTS IN THE AMOUNT OF \$30,603.29:

Moved by Pruette, seconded by Gilbert.

Motion: **TO APPROVE THE CONSENT AGENDA.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

VARIANCES / NONE

ORDINANCES

Ord. No. 2003-08

ORDINANCE NO. 2003-08, PROHIBITED USES – SECOND READ AND PUBLIC HEARING – SPONSORS, MAYOR BROWN, VICE-MAYOR GILBERT, COUNCILOR PRUETTE: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING SECTION 27-225(2) AND ADDING SECTION 27-223(4) USES EXPRESSLY PROHIBITED WITHIN ZONING DISTRICTS AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown read Ordinance No. 2003-08 by title only and opened the public hearing.

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

Moved by Gilbert, seconded by Pruette.

Motion: **TO ADOPT ORDINANCE 2003-08 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

Ayes: 4 – Gilbert, Pruette, Shealy, Brown

Noes: 1 – Weldon

MOTION CARRIED

Ord. No. 2003-09

ORDINANCE NO. 2003- 09, ABANDONED VEHICLES – FIRST READ, SPONSOR VICE MAYOR GILBERT: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 22, SECTION 22-35(A)(B) ADDING 22-35(C)(D)(E) ABANDONED VEHICLES.

Moved by Gilbert, seconded by Pruette.

Motion: **TO PASS ORDINANCE 2003-09 ON FIRST READ.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2003-10

ORDINANCE NO. 2003-10, NOISE ORDINANCE – FIRST READ, SPONSORS COUNCILOR SHEALY AND COUNCILOR PRUETTE: 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.

Moved by Gilbert, seconded by Shealy.

Motion: **TO PASS ORDINANCE 2003-10 ON FIRST READ.**

Roll Call Vote:

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

Noes: 0

City Clerk Lisa Volpe informed the Council at the request of Councilor Shealy the second reading and public hearing for Ordinance 2003-10 would be on September 8, 2003.

MOTION CARRIED

Ord. No. 2003-11

ORDINANCE 2003-11, MORATORIUM ON DEVELOPMENT OF OCEAN ACCESSES – FIRST READ, SPONSORS, 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 Weldon asked City Attorney White to confirm that Section 18-2 would cover any presently proposed development. City Attorney White replied it set an effective date of August 18, 2003. As far as he was concerned if there is any use or development in existence as of today it applies. It would apply to the minor replat on Bay Street.

Moved by Pruette, seconded by Shealy.

Motion: **TO PASS ORDINANCE 2003-11 ON FIRST READ WITH A FRIENDLY AMENDMENT THAT IT NOT INCLUDE THE AUTHORIZATION BY THE ISH BRANT BEAUTIFICATION COMMITTEE.**

Councilor Pruette explained some street ends have been adopted through the City Manager's office for beautification.

City Attorney White stated the moratorium on development did not include landscaping.

FRIENDLY AMENDMENT WITHDRAWN BY COUNCILOR PRUETTE

Mayor Brown stated the public beach access remained protected under the 1997 referendum. The Ordinance will allow the Council to fine tune the protection of the accesses.

Motion: **TO PASS ORDINANCE 2003-11 ON FIRST READ.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2003-12

ORDINANCE NO. 2003-12, BUILDING CODE – FIRST READ, SPONSOR 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 CHAPTER 8. BUILDINGS AND BUILDING REGULATION IN THEIR ENTIRETY AND SUBSTITUTING THEREFORE A NEW ARTICLE II ADOPTING THE FLORIDA BUILDING CODE BY REFERENCE, INCLUDING AN AMENDED CHAPTER 1. ADMINISTRATION; AND BY 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.

Councilor Gilbert stated the ordinance changed from the Southern Building Code to the Unified Building Code adopted by the State.

Building Official Tony Perez Guerra explained the City automatically was required to abide by the state code. However by going through this adoption process the city would be allowed to alter the administrative chapter.

Moved by Pruette, seconded by Gilbert.

Motion: **TO PASS ORDINANCE NO. 2003-12 ON FIRST READ.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

OLD BUSINESS

Variance V03-21

MOTION TO RECONSIDER CITY COUNCIL DECISION TO AFFIRM THE DENIAL OF VARIANCE REQUEST NO. V03-21 – VICE MAYOR GILBERT: Vice Mayor Gilbert asked for advice regarding the legality of reconsidering the council decision to deny the variance. He did not want to place the City in jeopardy and asked City Attorney White for his opinion. City Attorney White stated in the introductory provisions of the Code Section 2-35 a motion to reconsider says "after the decision of any question it shall be

in order if somebody from the prevailing side wants to reconsider". If the motion for reconsideration passes it was back in debate.

Discussion ensued regarding the legality of the reconsideration.

Councilor Weldon stated in other cities appeals for variance requests had to go through the court system.

Vice Mayor Gilbert stated the owner had made the following changes to his request: 1) to rescind the duplex status to single family and, 2) use a pervious type of material for parking. He stated if he could not get a definite answer on the legality he would remove it from the agenda.

MOTION TO RECONSIDER WITHDRAWN

Vice Mayor Gilbert requested the issue of variance appeals to be placed on the workshop agenda for discussion of possible changes.

Councilor Pruette suggested the applicant return to the Board of Appeals with the changes without the required fee.

Consensus: **TO ALLOW THE APPLICANT TO RETURN TO THE BOARD OF APPEALS WITH THE CHANGES TO HIS REQUEST AND WAIVE THE REQUIRED FEE.**

City Manager
Contract

CITY MANAGER'S EMPLOYMENT CONTRACT: City Attorney Chris White read the following letter from City Manager Linn's attorney Jeff Sneed for the record:

For the Record

Dear Chris,

As you know over the last week we have had several conversations regarding the legal issues arising out of my clients Richard Linn contract with the City of Neptune Beach. In order to amicably resolve these issues Mr. Linn would like to make the following proposal for early retirement from his employment with the City.

- 1) Richard's last working day would be September 12, 2003.
- 2) Effective his last day of work Richard would be placed on paid administrative leave through January 7, 2004.
- 3) During the period of administrative leave Mr. Linn would receive all benefits including insurance and the value of his vehicle.
- 4) Mr. Linn would receive the value of his vested personal leave time in January 2004.
- 5) The city would pay the amount necessary to vest Mr. Linn's pension in January 2004.

City Attorney White asked City Manager Linn if that was in fact his proposal. City Manager Linn responded "yes".

Moved by Weldon, seconded by Gilbert.

Motion: **TO ACCEPT THE PROPOSAL MADE BY MR. LINN THROUGH HIS ATTORNEY.**

Councilor Shealy questioned the monthly value of the vehicle. Director of Finance Steve Ramsey stated the value amounted to \$341.66 per month.

City Attorney White stated Mr. Linn was surely entitled to his accrued leave time in item number four. The retirement benefit proposed in item number five amounted to \$4,451.00 as of last Friday but could fluctuate by January 2004.

Councilor Shealy voiced concern regarding what would happen between now and September 12, 2003. He hoped that Mr. Linn would continue doing a professional job.

For the Record Mayor Brown stated on the record that he felt all along, that several months of work with the City Manager doing the job of the City Manager while in transition would have been better for the city.

Mayor Brown stated each department was capable of performing their duties.

Vice Mayor Gilbert called the question to move forward with the request.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Mayor Brown called on City Manager Linn to comment.

City Manager Linn made the following comments:

He requested Mayor Brown to allow him the opportunity to make comments. He was concluding his career of 37 years in public service at the state and local level. It had taken him from snow making on the top of the mountains in Pennsylvania to palm trees in sunny Neptune Beach and had been quite a ride. He recognized first and foremost his wife Patricia in the audience, adding the Saturday they would celebrate their 24th wedding anniversary and she had been by his side through the laughs and the tears and was his strongest supporter. He recognized his three children Jim, Cassie and Alan who being a child of a City Manager dealt with him being in the newspapers. He assured the Council that the management team was very capable. He recognized Director of Public Safety Bill Brandt for leading the finest Police Department he had ever seen and for being an asset to the community. He recognized Director of Public Services Leon Smith Public who came up through the ranks from a blue-collar worker to leading a department and thanked him for all his support. He recognized Director of Finance Steve Ramsey as a people person and finding ways to get things done. He recognized his assistant Terry Klein and his former assistant Lisa Volpe who broke him in. He thanked them for their support. He added that Neptune Beach was in very able hands with the management team and he was assured that the future of Neptune Beach would be well served. He recognized Mayor Brown as a friend and supporter. He recognized Vice Mayor Jimmy Gilbert for his support. He recognized all the employees of the city for being the ones that keep the city running. He stated there were three adjectives that defined a City Manager, first there was the new city manager, the next stage was the embattled city manager, and the last adjective was the former city manager. He thanked the Council and the community for their support and added that he would continue to do his professional job until September 12, 2004.

Recess/Reconvene Mayor Brown called a recess at 8:10 p.m. and reconvened the meeting at 8:27 p.m.

NEW BUSINESS

Traffic Signal
Florida Blvd. &
Windward Ln.

A RESOLUTION IN SUPPORT OF THE INSTALLATION OF A TRAFFIC SIGNAL AT FLORIDA BOULEVARD AND WINDWARD LANE: City Manager Linn stated the city had requested the installation of a traffic light at the intersection and now needed support from the Council.

Councilor Shealy recommended having the yellow light flashing during the non-heavy traffic hours put it in the application.

Moved by Pruette, seconded by Shealy.

Motion: **TO APPROVE RESOLUTION IN SUPPORT OF A TRAFFIC SIGNAL AT FLORIDA BOULEVARD AND WINDWARD LANE.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Surplus Equip.

A MOTION TO DECLARE CERTAIN EQUIPMENT AS CITY SURPLUS AND AUTHORIZATION TO SELL: City Manager Linn stated the police department upgraded their guns and the old ones were now obsolete. They would get quotes from the gun dealers and offer them to the officers who carried them at that price.

Moved by Gilbert, seconded by Weldon.

Motion: **TO DECLARE CERTAIN EQUIPMENT AS SURPLUS AND AUTHORIZE THE SELL.**

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

Noes: 0

MOTION CARRIED

Minor Replat
Bay St.

CITY COUNCIL ACTION TO WITHDRAW AND DISAPPROVE A MINOR REPLAT ON BAY STREET:

Moved by Weldon, seconded by Pruette.

Motion: **TO WITHDRAW AND DISAPPROVE THE MINOR REPLAT FROM BAY STREET.**

City Attorney White suggested the Council come to a consensus that the City Manager issue a letter to the developer stating approval of the minor replat had been withdrawn and rescinded.

MOTION WITHDRAWN

City Manager Linn questioned why a formal motion was not necessary. City Attorney White suggested the Council by consensus authorize the City Attorney to convey his opinion letter to the developers' attorney.

Consensus: **TO AUTHORIZE THE CITY ATTORNEY TO CONVEY HIS OPINION LETTER TO THE DEVELOPERS ATTORNEY.**

Street Resurfacing

CITY COUNCIL CONSENT TO AWARD STREET RESURFACING CONTRACT TO ATLANTIC COAST ASPHALT COMPANY IN THE AMOUNT OF \$448,372.32 PLUS \$30.00 PER LINEAR FOOT FOR SPEED HUMPS: City Manager Linn recommended the acceptance of the contract piggybacking off of the City of Jacksonville in lieu of requesting bids.

Councilor Weldon stated at the Florida League of Cities Conference Exhibition there was a company called Volkert & Associates who specialized in reviewing engineering for repaving and confirming speed humps met national standard. He recommended postponing awarding of the contract for 30 days until proposals could be received from

Volkert & Associates.

Director of Leon Smith stated the contract was based on the City of Jacksonville pricing. He did some comparisons and this was the better price. He added the speed humps could be installed at a later date.

City Manager Linn stated the cost of asphalt would increase with the price of oil.

Councilor Pruette suggested inviting the representative from Volkert & Associates to the workshop meeting.

Consensus: **TO POSTPONE THE AWARD OF THE CONTRACT FOR 30 DAYS AND LOOK AT OTHER FIGURES.**

Interim City Manager **INTERIM CITY MANAGER APPOINTMENT:** City Attorney White advised Council to call a special meeting next week to appoint an interim city manager.

Consensus: **TO HOLD A SPECIAL MEETING TO APPOINT AN INTERIM CITY MANAGER MONDAY, SEPTEMBER 8, 2003 AFTER THE 6:00 P.M. BUDGET MEETING.**

Adjournment There being no further business, the meeting adjourned at 8:56 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____