



**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**MARCH 1, 2004, 7:00 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 March 1, 2004, 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 James Gilbert  
 Councilor Harriet Pruette  
 Councilor Larry Shealy  
 Councilor John Weldon  
 City Manager Jim Jarboe  
 City Clerk Lisa Volpe, CMC

ABSENT:

City Attorney Christopher White

STAFF:

Director of Community Development Jason Cleghorn  
 Assistant to the City Manager Terry Klein  
 Director of Finance Steve Ramsey  
 Director of Public Services Leon Smith  
 Deputy City Clerk Karla Strait, CMC

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.

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

**APPROVAL OF MINUTES**

Motion: **TO APPROVE THE FOLLOWING MINUTES:**  
**JANUARY 27, 2004, SPECIAL CITY COUNCIL MEETING**  
**FEBRUARY 2, 2004, SPECIAL CITY COUNCIL MEETING**  
**FEBRUARY 2, 2004, REGULAR CITY COUNCIL MEETING**  
**FEBRUARY 9, 2004, SPECIAL CITY COUNCIL MEETING**  
**FEBRUARY 9, 2004, LAND DEVELOPMENT WORKSHOP MEETING**

Moved by Weldon, seconded by Gilbert.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED**COMMUNICATIONS AND CORRESPONDENCE**

Mayor Brown stated he received a letter from City of Jacksonville Mayor John Peyton regarding Penman Road Improvements. The letter advised that he had asked the City of Jacksonville Public Works Department to handle the matter.

Mayor Brown was concerned about a letter he received from the Duval County Health Department with news that Neptune Beach had a higher than average infant mortality rate. The Health Department requested our help in publicizing services for expectant mothers at the beaches. Councilor Shealy stated the correspondence was based on the percentage of one per thousand, which he felt, made our numbers seem higher than average.

Mayor Brown stated the Boys & Girls Club was campaigning to raise funds for improvements. He encouraged the community to support their fund drive.

Mayor Brown advised the City of Atlantic Beach, the City of Jacksonville Beach and the City of Neptune Beach were hosting the monthly Florida League of Cities Dinner Meeting on March 18, 2004 at the Sea Turtle Inn and he encouraged the Council to attend.

Mayor Brown stated his wife Elaine Brown wished to thank the city for the kinds thoughts and flowers during her hospital stay.

Councilor Gilbert stated Atlantic Beach City Commissioner Desmond Waters was heading up a campaign for door prizes for the Florida League of Cities Dinner if any local businesses would like to donate.

Councilor Pruette stated she had written a memo concerning the Penman Road Traffic Study and would like to place the issue on the March workshop meeting agenda.

Mayor Brown commended Officer Robert S. Jones for receiving a Certificate of Appreciation for his participation in the Buckle Up Florida Enforcement Wave.

City Clerk Lisa Volpe informed Council reservations must be made for attendance at the Florida League of Cities Dinner Meeting by March 15th. She advised she would make reservations for anyone who wished to attend.

**CITY MANAGER REPORTS**

## Action List

CITY MANAGER ACTION LIST: City Manager Jarboe described the following projects that he placed on an action list.

1. A CITY WIDE DRAINAGE IMPROVEMENT PLAN: He would be meeting with representatives of Jacksonville Beach to discuss possible long-term shared drainage options.
2. BAL HARBOR DRAINAGE IMPROVEMENT: He recommended installing a permanent small lift station as a solution for the Bal Harbor drainage problem.
3. FIRST STREET DRAINAGE IMPROVEMENT: He was working on putting together a request for proposals for drainage improvements on First Street.
4. FIRST STREET REBUILD PLAN: Once the drainage improvements were complete he planned to have First Street milled down as far as possible and overlay the top. He felt this could be done within the budget and would take a week or less to complete.

5. STREET PAVING PLAN: He proposed to move forward on the repaving project provided by the Volkert Study. The paving could be done within the existing budget by piggybacking off of the City of Jacksonville's contract.
6. WATER PLANT IMPROVEMENT: He proposed to fence in the entire Water Plant area and install landscaping to make it less intrusive. The fencing could also be funded within the existing budget and the landscaping expense would come from the Convention Development Tax Fund.

Mr. Jarboe informed the Council he would provide periodic updates on each project outlining the stage and expenses to date.

Discussion ensued regarding street paving priorities.

City Manager Jarboe stated he would meet individually with Council Members to discuss their concerns and would report back with a revised priority list for their approval.

Sewer Project

SEWER IMPROVEMENT PROJECT: The contractor was finishing up the change order work on the sewer improvement project.

City Yard Project

CITY YARD PROJECT: Director of Public Services Leon Smith reported the construction of the new city yard was still on schedule and should be complete by June 1<sup>st</sup>, 2004.

Beach Accesses

BEACH ACCESSES: Community Development Director Jason Cleghorn, stated Boatwright / Durden Land Surveyors ordered concrete markers for the beach accesses. They would begin surveying once the markers were received.

Mr. Cleghorn prepared a Beach Access Preliminary Survey that determined out of all the accesses six of them had the potential for future development.

City Manager Jarboe stated coastal aerial views would soon be available from the Department of Environmental Protection and would provide a more detailed view of the accesses.

### PUBLIC COMMENTS

James Raimondo, 1305 Noe Court, supported the donation from the City for the Neptune Beach Elementary Track.

Lynda Padrta, 1113 First Street, opposed allowing the use of the public property for outdoor restaurant seating.

### CONSENT AGENDA

WAIVER OF OPEN CONTAINER ORDINANCE FOR "DANCIN' IN THE STREETS": Approval to waive the open container ordinance for the annual "Dancin' in the Streets".

NEPTUNE BEACH ELEMENTARY TRACK DONATION OF \$5,000: Approval to donate \$5,000 toward the construction of the new track and provide equipment and labor for sod placement.

Moved by Pruette, seconded by Shealy.

Motion: TO APPROVE THE CONSENT AGENDA.

Roll Call Vote:

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

MOTION CARRIED

**VARIANCES / NONE**

**ORDINANCES**

Ord. No. 2004-01

ORDINANCE NO. 2004-01 – AMENDING CHAPTER 27, ARTICLE XV, ADVERTISING, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING THE EXISTING CHAPTER 27, ARTICLE XV ADVERTISING, AMENDING SEC. 27-575 PURPOSE AND INTENT, SEC. 27-576 DEFINITIONS, SEC. 27-577 MAINTENANCE OF SIGNS, SEC. 27-580 EXEMPTIONS, SEC. 27-581 PROHIBITED SIGNS, SEC. 27-582 SIGN AREA COMPUTATION, SEC. 27-583 PERMITTED TEMPORARY SIGNS, SEC. 27-584 GROUND SIGNS, SEC. 27-586 ENTRANCE SIGNS FOR SUBDIVISIONS AND MULTIFAMILY DEVELOPMENTS, SEC. 27-589 PLACEMENT STANDARDS, SEC. 27-591 DESIGN STANDARDS, SEC. 27-592 NONCONFORMING SIGNS, SEC. 27-593 VIOLATION CONSTITUTE NUISANCE; ABATEMENT, DELETING SEC. 27-585 BUILDING SIGNS AND ADDING SEC. 27-585A BUILDING SIGNS, SEC. 27-585B UNIFIED SIGNS PLAN, SEC. 27-585C SIGNS WITHIN PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICTS, SEC. 27-585D SIGNS WITHIN CONSERVATIONS (CON) ZONING DISTRICTS AND PROVIDING AN EFFECTIVE DATE.

Moved by Gilbert, seconded by Weldon.

Motion: **TO PASS ORDINANCE NO. 2004-01 ON FIRST READ.**

Councilor Pruetto stated she would support the Ordinance on first read but wanted to hear the city attorney's opinion before second read.

Mayor Brown stated he would also support the Ordinance on first read but he had questions he would like to discuss at the workshop meeting.

Councilor Weldon stated he had spoken with City Attorney White and Mr. White had no objections to the Ordinance.

Councilor Weldon instructed Development Director Jason Cleghorn to review the Ordinance and change the words "should" and the words "maybe" to shall.

Councilor Weldon advised Section 27-584(2) that allowed developers or landowners on corner lots to have two signs on their property was deleted.

Roll Call Vote:

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

MOTION CARRIED

Ord. No. 2004-02

ORDINANCE NO. 2004-02 – AMENDING CHAPTER 27, SECTION 27-479, SIDEWALKS AND BIKEWAYS, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING THE EXISTING CHAPTER 27, SECTION 27-479 SIDEWALKS AND BIKEWAYS AND PROVIDING AN EFFECTIVE DATE.

Moved by Weldon, seconded by Gilbert.

Motion: **TO PASS ORDINANCE NO. 2004-02 ON FIRST READ.**

Mr. Brocato, Owner, Sunny Caribbee, stated he felt the lease rate of \$11.00 per square foot was reasonable. He also agreed to comply with 50% being designated a nonsmoking area and placing a sign designating alcohol was not to leave the premises.

Councilor Pruette asked that the ordinance include provisions that during "Dancin' in the Streets" the tables and chairs would have to be removed. She also asked that the restaurant owner relocate personalized bricks if there were any written requests from citizens. She felt the building official should inspect the area. She also asked that patrons be required to buy an entrée in order to sit outside and drink.

Councilor Weldon explained in response to Lynda Padrta's comment the lease rate was reasonable because the area would not be useable year round and there was no infrastructure associated other than the sidewalk itself. He felt the owner should not have to bear the cost of moving tables & chairs for "Dancin' in the Streets". He felt Councilor Pruette's request to have bricks relocated was reasonable. He felt it placed a burden on patrons not the restaurant owner if an entrée was required to have a drink.

Mayor Brown asked the Council to keep in mind the lease would be renewed on an annual basis and if they were not satisfied the lease could be discontinued.

Councilor Shealy had concerns about smoking and drinking on public property.

Mayor Brown stated now that patrons were not allowed to smoke inside restaurants they would gather outside the entrances to smoke.

Vice Mayor Gilbert agreed the building official should inspect the area for safety issues. He preferred the entire area to be nonsmoking because smoke could not be detained in a specific area due to winds.

Vice Mayor Gilbert asked to place the ordinance on the workshop meeting agenda.

Moved by Weldon, seconded by Gilbert.

Friendly Amendment: **TO APPROVE ORDINANCE NO. 2004-02 ON FIRST READ INCLUDING REVIEWING SOME THE ISSUES AT THE NEXT WORKSHOP.**

Roll Call Vote:

Ayes: 3 – Gilbert, Weldon, Brown

Noes: 2 – Pruette, Shealy

MOTION CARRIED

### **OLD BUSINESS**

Whataburger

DEVELOPMENT ORDER – WHATABURGER – 1201 ATLANTIC BOULEVARD: Mayor Brown stated the Planning & Development Review Board recommended approval of the Whataburger Development Order.

Councilor Weldon added the Planning & Development Review Board recommended approval conditional on bringing two sign options.

Brian Smith, Senior Project Manager, FesteCapital Development, stated Whataburger would be a full service sit down restaurant with a drive through window and turnaround. He explained the proposal was to convert the old Burger King into a Whataburger with minimal site changes. The covered area on the northside of the building would be eliminated and landscaping would be added. The exterior of the building would be orange

and white. They wanted to maintain the existing 25' pole sign changing the logo. The playground equipment was to be donated to a school.

Vice Mayor Gilbert stated the PDRB had asked them to bring in two signs options, one being a monument sign.

Mr. Smith stated they brought in two potential sign options but they preferred to use the existing pylon sign.

Beth Breeding, owner/landlord, stated there were constraining factors which prevented the placement of a monument sign. She read the following letter from Ward Koutnik, President of Transportation Planners & Engineers, a company they hired to look at the site.

*As requested, TPE conducted a site investigation and took appropriate photographs regarding the driver's sight distance clearance at Penman Road and Atlantic Boulevard related to the southwest corner business site (previous Burger King restaurant). Figure 1 shows the site and the corner details.*

*At present, the northeastern portion of the property has 3' to 6' height bushes and the single pole pylon business sign which is about 18 feet from the north property line and 17 feet from the east property line.*

*In order to meet the Florida Department of Transportation's "Sight distance at the intersection" (Index 546), a driver stopped at the stop bar on Penman Road would have to have a clear line of sight to the west two feet above the ground (top of ground cover) as shown on Figure 1. Nothing within the clear sight area should be higher than two feet above the ground.*

*Figure 1 also shows the 25 foot corner setback used by the City of Jacksonville. Some of the present landscaping at the property will have to be removed and replaced with low growing plants (e.g.-junipers) in order to meet the two foot height criteria for sign distance.*

*At present, the only objects that hinder a motorist view on Penman Road at the stop bar or on Atlantic Blvd. traveling eastbound, are the traffic signal pole, the power pole, the pedestrian signal and the JTA bus stop bench and trash can. Of course, you have no responsibility for these items.*

*The present single pole pylon business sign doesn't block any driver views. It is outside the FDOT's sight distance standard as well as the 25 foot corner triangle area. This sign should remain where it is. No monument sign should be located on the property since it would likely block various driver views at the driveways and or/on-site. Furthermore, driver views approaching the Penman/Atlantic intersection from the south and west, respectively, would be blocked by a monument sign around the present single pole business sign. Hence, when the traffic signal is about to change from "red" to "green" for the eastbound direction and the reverse for the northbound direction, an intersection accident could occur. (vehicle runs red light and approaching vehicle enters without stopping). The reverse situation can also occur.*

*In conclusion, if the landscaping within or near the FDOT sign distance "limit of clear sight" is modified to be only two feet above the ground level, there should be no sight blockage as discussed above. Furthermore, there is no need to remove the existing business sign related to traffic safety.*

*Ward Koutnik, President*

Ms. Breeding felt based on those safety issues the pole sign should remain.

Moved by Weldon.

Motion: **TO DENY THE DEVELOPMENT ORDER FOR WHATABURGER.**

**MOTION DIED FOR LACK OF SECOND.**

Councilor Weldon stated within 30 days the new ordinance would prohibit pylon signs and pole signs. The new ordinance would require all pylon and pole signs be removed within 10 years. He added the five other businesses that recently located in the area recognized the community's interest and complied voluntarily.

Ms. Breeding argued the other businesses were not located on a busy intersection and did not have visibility issues.

Councilor Pruette stated that was a busy corner and she could see where there would be a problem with visibility.

Mayor Brown stated traffic safety could not be ignored and a monument sign should not be required because the new sign ordinance had not been adopted. He added traffic safety would continue to be an issue even after the ordinance was adopted and would have to be considered.

Vice Mayor Gilbert stated he would have seconded Councilor Weldon's motion if he felt it was legal to deny it. He added he would be the first one to demand that it come down in ten years. They were giving them the opportunity to install a monument sign now instead of ten years from now.

Mayor Brown stated it was correct the city was moving in the direction of monument signs but the request was not illegal.

Moved by Gilbert, seconded by Pruette.

Motion: **TO APPROVE THE DEVELOPMENT ORDER FOR WHATABURGER.**

Councilor Pruette asked once more if they were willing to reconsider and install a monument type sign.

Mr. Smith stated they would like to get the development order approved with the 25' pole sign, however it was something they may reconsider.

Roll Call Vote:

Ayes: 3 – Gilbert, Pruette, Brown

Noes: 2 – Shealy, Weldon

**MOTION CARRIED**

Recess/Reconvene

Mayor Brown called a recess at 8:25 p.m. and reconvened the meeting at 8:30 p.m.

Monahan Roofing

**DEVELOPMENT ORDER – MONAHAN ROOFING – 2050 KINGS CIRCLE:** Development Order for Thomas Monahan, owner, Monahan Roofing, 2050 Kings Circle.

Director of Community Development Jason Cleghorn, explained Mr. Monahan received approval from the Planning & Development Review Board in May of 2002 but did not move forward with that plan. The plans have been reviewed and revised moving the building toward the rear of the property to allow for parking. A variance was required and approved for the relocation of the building. Mr. Cleghorn also discovered part of the street encroached onto Mr. Monahan's property and would have to be removed.

Moved by Weldon, seconded by Pruette.

Motion: **TO APPROVE THE DEVELOPMENT ORDER FOR MONAHAN ROOFING.**

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

MOTION CARRIED

**NEW BUSINESS**

Res. No. 2004-05

RESOLUTION NO. 2004-05: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA CALLING FOR A REVISION IN JHA UTILITY PAYMENT PROCEDURES.

Moved by Gilbert, seconded by Pruette.

Motion: **TO APPROVE RESOLUTION NO. 2004-05.**

Roll Call Vote:

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

MOTION CARRIED

Res. N. 2004-06

RESOLUTION NO. 2004-06: A RESOLUTION APPOINTING BOARD MEMBERS TO THE BOARD OF APPEALS.

Moved by Pruette, seconded by Gilbert.

Motion: **TO APPROVE RESOLUTION NO. 2004-06.**

Roll Call Vote:

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

MOTION CARRIED

Adjournment

There being no further business, the meeting adjourned at 8:40 p.m.

\_\_\_\_\_  
Richard A. Brown, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Volpe, CMC, City Clerk

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