



MINUTES
REGULAR CITY COUNCIL MEETING
MARCH 7, 2005 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 7, 2005 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 Harriet Pruette
Councilor Eric Pardee
Councilor Larry Shealy
Councilor John Weldon
City Attorney Christopher White
City Manager Jim Jarboe
City Clerk Lisa Volpe, CMC

STAFF:

Community Development Director Jason Cleghorn
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 led the pledge of allegiance.

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS / NONE

APPROVAL OF MINUTES

Moved by Pruette, seconded by Pardee.

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

FEBRUARY 7, 2005 REGULAR COUNCIL MEETING

Roll Call Vote:

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

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Vice Mayor Pruette stated Leslie Lyne, Director of the Senior Activity Center, asked the Council to pass a Resolution opposing the federal budget cuts to the Community Development Block Grant Program. Vice Mayor Pruette asked staff to prepare the Resolution.

City Manager Jarboe stated the paving contractor would return Thursday to complete the repaving project.

City Clerk Volpe informed the Council the Clerks Office had sent out all Minutes, Resolutions, Ordinances, Commercial Building Plans, and some Subdivision Plans to the Municipal Code Corporation to be scanned and imaged. The original documents would be returned along with the imaged documents near the end of April. This will allow the Clerks Office to retrieve documents and plans on the computer without having to page through the original records.

City Manager Jarboe stated he recently attended a Florida League of Cities meeting. He explained to the FLC the recording software our City Clerk's office was using to record minutes. The FLC advised him they would be interested in showcasing the software.

CITY MANAGER REPORT / NONE

PUBLIC COMMENTS

William Hamel, 509 Lora Street, stated Beaches Energy Services relocated a transformer from in front of his neighbor's property to the front of his property. He wanted the transformer moved back to its original location. Mayor Brown informed Mr. Hamel the City did not have the authority to regulate the utility company. City Attorney White advised the problem should be disputed between the individual and the agency.

CONSENT AGENDA

- | | |
|------------------------|--|
| Computer Software | <u>COGSDALE SOFTWARE</u> : Approval of purchasing Cogsdale software and conversion from HTE to Cogsdale for the amount of \$141,438. |
| Dancin' in the Streets | <u>DANCIN' IN THE STREETS</u> : Approval of closing the streets for the annual Town Center Event "Dancin' in the Streets" May 14, 2005 from 5:00 a.m. to 11:00 p.m. including Atlantic Boulevard to Second Street and First Street to Orange Street and waiving the open container ordinance between 11:00 a.m. and 9:30 p.m. for alcohol sales by Town Center Agency. |
| Beaches Dial-a-Ride | <u>BEACHES DIAL – A – RIDE</u> : Approval of donation of \$1,500 to Beaches Dial-a-Ride to be paid from the Contingency Funds. |
| Res. No. 2005-02 | <u>APPROVAL OF RESOLUTION NO. 2005-02: RESOLUTION OF THE CITY OF NEPTUNE BEACH CITY COUNCIL, ACCEPTING THE DUVAL COUNTY LOCAL HAZARD MITIGATION STRATEGY DOCUMENT.</u> |

Moved by Weldon, seconded by Shealy.

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

Roll Call Vote:

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

MOTION CARRIEDVARIANCES

Variance V05-07
 Staley
 600 Davis Street.

VARIANCE REQUEST V05-07, STALEY – 600 DAVIS STREET: Variance Appeal for Mr. and Mrs. Donald Staley, 600 Davis Street. According to Mr. Staley his appeal was based on the Board of Appeals decision not being supported by competent substantial evidence and testimony produced at the public hearing.

Variance Request # 1 Existing Table 27-299-1, Lot Size, a variance request of 675 square feet, leaving 11,325 square feet, in lieu of the required 12,000 square feet.

Variance Request # 2 Existing/Proposed Table 27-229-1 Rear Yard, a variance request of 4.6 feet, leaving 25.4 feet, in lieu of the required 30 feet.

Purpose: To replace and enlarge the existing sunroom/enclosed patio.

Mr. Staley stated his variance request was turned down by the Board of Appeals. He requested a variance of 4.6 feet. The Board modified his request and gave him a variance for the 2' encroachment that existed with the current patio. He felt the Board did not fully understand his request. Mr. Staley added his neighbors did not object to the 12' x 26' sunroom. He bought the property 1 ½ years ago and had made many improvements. He had a large corner lot and a new privacy fence and wanted to build a 12' x 26' sunroom in the rear. The Boards decision was based on a 10 x 26 sunroom.

Chairman of the Board of Appeals Sybil Ansbacher stated the Board did not turn down the request; they approved it with a modification. The existing porch infringed 2' into the setback already and he was asking for a 4 ½' infringement which would be an addition 2 ½ feet. The consensus of the Board was that a 10'x 26' sunroom would not deprive the applicant use of the property. She added there was not a procedural error in which the applicant could appeal.

Mayor Brown felt the request was reasonable and the system in which the Board was required by the Code to follow had failed. The lot was large, had a privacy fence and the neighbors did not object. He felt 2 additional feet would not make a difference. He supported overturning the decision of the Board and granting the 4.6' variance request.

Vice Mayor Pruette agreed the lot was large and the current system had failed in this circumstance.

Councilor Shealy stated board members worked hard volunteering their time and he did not want to overrule their decision.

Councilor Pardee asked City Attorney White to comment on the Council's role in the decision. City Attorney White advised the applicant was appealing the Board's decision based on the decision not being supported by competent substantial evidence and testimony. The issue before the Council was to determine if the Board's decision was or was not supported by competent substantial evidence and testimony produced at the hearing.

Councilor Weldon felt there was not a procedural error and stated he would vote against approval of the appeal and affirm the decision of the Board of Appeals.

Moved by Weldon, seconded by Shealy.

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

Roll Call Vote:

Ayes: 3 – Pruette, Shealy, Weldon

Noes: 2 – Pardee, Brown

MOTION CARRIED

ORDINANCES

Ord. No. 2005-01

ORDINANCE NO. 2005-01, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING SECTION 13-5(E) PROPERTY OWNER RESPONSIBILITY FOR SWORN COMPLAINTS AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown read Ordinance No. 2005-01 by title only and opened the public hearing.

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

Moved by Shealy, seconded by Pruette.

Motion **TO ADOPT ORDINANCE NO. 2005-01 ON SECOND READ AND PUBLIC HEARING.**

Ord. No. 2005-03

ORDINANCE NO. 2005-03, AMENDING CHAPTER 27-15 DEFINITIONS, AND ADDING SECTION 27-31, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27-15 DEFINITIONS AND ADDING CHAPTER 27-31 TEMPORARY STRUCTURES AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown read Ordinance No. 2005-03 by title only and opened the public hearing.

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

Moved by Weldon, seconded by Pruette.

Motion **TO ADOPT ORDINANCE NO. 2005-03 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2005-04

ORDINANCE NO. 2005-04, AMENDING CHAPTER 27, UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE II AND ARTICLE VII, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATION, ARTICLE II. ADMINISTRATIVE AND ENFORCEMENT BODIES, DIVISION 2. PLANNING AND DEVELOPMENT REVIEW BOARD, SECTION 27-38(A) APPOINTMENTS AND 27-38(L) ALTERNATE MEMBERS, ADDING

SECTION 27-38(N) TRAINING; AMENDING SECTION 27-41 VOTING AND QUORUM, AMENDING DIVISION 3. BOARD OF APPEALS, SECTION 27-47(A) APPOINTMENTS, SECTION 27-47(I) [ALTERNATE MEMBERS], ADDING SECTION 27-47(J) TRAINING, AMENDING SECTION 27-50(A) VOTING AND QUORUM, AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE VII. BOARDS AND COMMISSIONS, DIVISION 2. CODE ENFORCEMENT BOARD AMENDING SECTION 20439(E) ADDING SECTION 2-439 (F) TRAINING AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown read Ordinance No. 2005-04 by title only and opened the public hearing.

Leslie Karlin, 1506 Spindrift Circle West, favored Ordinance No. 2005-04 in that it did not change the amount of board members.

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

Moved by Pardee, seconded by Weldon.

Motion **TO ADOPT ORDINANCE NO. 2005-04 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2005-05

ORDINANCE NO. 2005-05, AMENDING CHAPTER 4 ALCOHOLIC BEVERAGES, SECTION 4-4(B), SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 4 ALCOHOLIC BEVERAGES SECTION 4-4(B) LOCATION OF ESTABLISHMENTS AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown read Ordinance No. 2005-05 by title only and opened the public hearing.

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

Moved by Weldon, seconded by Shealy.

Motion: **TO ADOPT ORDINANCE NO. 2005-05 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2005-06

ORDINANCE NO. 2005-06, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS AMENDING SECTION 27-458 RESIDENTIAL LANDSCAPE REQUIREMENTS AND AMENDING SECTION 27-476 STREET DESIGN STANDARDS AND PROVIDING AN EFFECTIVE DATE.

Councilor Weldon suggested the following changes to Ordinance No. 2005-06:

Section 1. Section 27-458(3) ~~manage~~ manager

Section 2. Section 27-476(2) Public walkways and ramps may be built in these right-of-ways. No other construction is permitted except as necessary to access adjacent properties when no other means of access to said properties is possible.

Section 2. Section 27-476 ~~(1)(2)(3)(4)~~ (a)(b)(c)(d)

Section 2. Section 27-476(c) ~~deemed necessary~~ necessary

Vice Mayor Pruette was concerned the Ordinance did not refer to trees being planted in accesses where they may restrict ocean views.

Councilor Weldon asked City Manager Jarboe to place Ordinance No. 2005-06 on the Workshop Meeting agenda to discuss trees in the right-of-ways.

Moved by Pruette, seconded by Pardee.

Motion: **TO PASS ORDINANCE NO. 2005-06 WITH CHANGES DISCUSSED.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

OLD BUSINESS / NONE

NEW BUSINESS

Res. No. 2005-01

RESOLUTION NO. 2005-01, APPOINTING BOARD MEMBERS: A RESOLUTION REAPPOINTING BOARD MEMBERS TO THE PLANNING AND DEVELOPMENT REVIEW BOARD AND THE BOARD OF APPEALS.

Moved by Pruette, seconded by Weldon.

Motion: **TO APPROVE RESOLUTION NO. 2005-01.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Councilor Shealy asked City Manager Jarboe to place the issue of alcohol sales on the Workshop Meeting agenda.

Councilor Weldon stated City Manager Jarboe needed to inform Mr. Hamel that the transformer relocated in front of his house was not going to be moved.

Vice Mayor Pruette stated she had received complaints regarding the high hedge on the Myrtle Street beach access and asked the City Manager to have it trimmed and thinned from the bottom up.

Adjournment

There being no further business, the meeting adjourned at 7:52 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____