



MINUTES
SPECIAL CITY COUNCIL MEETING
OCTOBER 17, 2005 AT 6:00 P.M.
CITY HALL, 116 FIRST STREET
NEPTUNE BEACH, FLORIDA

Pursuant to proper notice a Special Meeting of the City Council of the City of Neptune Beach was held October 17, 2005 at 6:00 p.m., in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida.

Attendance

IN ATTENDANCE:

Mayor Richard A. Brown
Vice Mayor Pruette
Councilor Eric Pardee
Councilor John Weldon
City Manager James Jarboe
City Clerk Lisa Volpe, CMC

ABSENT:

Councilor Larry Shealy
City Attorney Chris White

STAFF:

Director of Community Development Jason Cleghorn
Director of Finance Steve Ramsey
Director of Public Safety David Sembach
Director of Public Services Leon Smith
Deputy City Clerk Karla Strait, CMC
Assistant to the Building Official Piper Turner
Code Enforcement Officer John Webber

Order Call

Mayor Brown called the special meeting to order at 6:00 p.m. and announced the purpose of the meeting.

PRESENTATION OF DONATION TO NORTH EAST FLORIDA AMERICAN RED CROSS: Senior Activities Director Leslie Lyne explained the hurricane relief function held in Town Center on September 24th raised \$13,100.00 for the victims of Hurricane Katrina. She presented a check for said amount to Jack Morgan of the Northeast Florida Red Cross.

Appeal
Wood / Big Ben's
1309 Big Tree

APPEAL OF ADMINISTRATIVE DECISION – MARK WOOD, 1309 BIG TREE ROAD: City Manager Jarboe explained in accordance with Section 27-452 of the Code of Ordinances, Mr. Mark Wood and Big Ben's Tree Service were each fined \$4,700.00 for removal of a heritage tree without a permit. The Board of Appeals heard both appeals September 21st and upheld the decision of the city.

Code Enforcement Officer John Webber explained he and Community Development Director Jason Cleghorn witnessed Big Ben's Tree Service cutting up a large oak tree at 1309 Big Tree Road. Upon further investigation they determined a permit had not been issued for removal of the tree. They did not observe any decay throughout any of the remaining tree sections and the stump appeared to be completely healthy.

Mr. Mark Wood, 1309 Big Tree Road, stated in advance of the approaching hurricane season he hired Big Ben's Tree Service to inspect the trees on his property. Big Ben's Tree Service determined at the time of their inspection that this particular tree was in danger of falling and needed to be removed. The next day the company came out to remove the tree. He was asked by a representative of the tree company if he had obtained a permit in which he replied "no" he was not aware that one was needed. At that time, around 7:00 a.m., his wife telephoned City Hall to inquire about obtaining a permit and received no answer from City Hall. She called back later that day and the line was busy.

Councilor Weldon asked Mr. Wood how much money Big Ben's Tree Service charged him to remove the tree. Mr. Wood responded \$1,600.00.

Bennett Geiger, owner of Big Ben's Tree Service, 2717 St. Johns Bluff Road, explained the tree was not safe due to a separation of the wood and he felt the tree needed to be removed as soon as possible. He advised the lady of the house she needed to get a permit from the city.

Councilor Weldon asked Mr. Geiger if his crew was aware that a permit had not been obtained for the tree removal, to which Mr. Geiger replied "yes".

Councilor Weldon asked Mr. Geiger why the crew did not insist on seeing a permit before beginning the work. Mr. Geiger responded due to safety purposes it was against his better judgment to wait for the permit to be obtained. Mr. Geiger added it was preprinted on the invoice that it was the property owner's responsibility to obtain the permit.

Councilor Pruette stated citizens relied on professional contractors for guidance and the contractor should be held responsible.

Councilor Pardee stated citizens relied on contractors to be aware of the laws and he felt it was the contractor's responsibility to obtain a permit and have it on site before beginning the work.

Councilor Weldon felt blame was shared however he felt the penalty was too extreme. He recommended fining the property owner \$500.00 and Big Ben's Tree Service \$1,600.00, the amount the property owner was charged to have the tree removed.

Councilor Pardee felt it should be contractor's responsibility and recommended not fining the property owner but fining Big Ben's the full amount of \$4,700.

Councilor Pruette agreed the property owner should not be fined.

Mayor Brown felt the penalty was too extreme and recommended the property owner be fined \$100.00 and the contractor \$250.00.

Councilor Weldon emphasized the decision would create a precedent and Big Ben's Tree Service should at the least not profit.

Moved by Weldon.

Motion: **TO FINE THE HOMEOWNER \$250.00 FOR FAILING TO GET A PERMIT AND FINE BIG BEN'S TREE SERVICE \$1,600.00.**

MOTION DIED FOR LACK OF A SECOND.

Moved by Pardee, seconded by Pruette.

Motion: **TO FINE THE CONTRACTOR \$3,600, \$100.00 PER DIAMETER INCH OF THE TREE AND NOT FINE THE HOMEOWNER FOR FAILURE TO PULL A PERMIT.**

Councilor Weldon stated that would be setting a bad precedent for property owners.

Roll Call Vote:

Ayes: 2 – Pardee, Pruette

Noes: 2 – Weldon, Brown

MOTION FAILED

Moved by Weldon.

Motion: **TO FINE THE CONTRACTOR \$1,600.00 AND THE PROPERTY OWNER \$100.00.**

MOTION DIED FOR LACK OF SECOND.

Moved by Pruette, seconded by Pardee.

Motion: **TO FINE THE HOMEOWNER \$100.00 AND THE CONTRACTOR \$3,600.**

Roll Call Vote:

Ayes: 3 – Pardee, Pruette, Weldon

Noes: 1 – Brown

MOTION CARRIED

Adjournment

There being no further business, the meeting adjourned at 7:05 p.m.

Richard Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____