



MINUTES
REGULAR CITY COUNCIL MEETING
MAY 1, 2006 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 May 1, 2006 at 7:00 p.m., in the City Hall Council Chambers, 116 First Street, Neptune Beach, Florida.

Attendance

IN ATTENDANCE:

STAFF:

Mayor Richard A. Brown
 Vice Mayor Harriet Pruette
 Councilor Fred Lee
 Councilor Eric Pardee
 Councilor John Weldon
 City Attorney Christopher White
 City Manager Jim Jarboe
 City Clerk Lisa Volpe, CMC

Community Development Director 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

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

Res. No. 2006-09

RESOLUTION NO. 2006-09: A RESOLUTION OF THE CITY OF NEPTUNE BEACH HONORING DIRECTOR OF PUBLIC SERVICES, LEON SMITH, FOR SERVING THE COMMUNITY OF NEPTUNE BEACH IN AN OUTSTANDING MANNER FOR THIRTY YEARS.

Moved by Weldon, seconded by Lee.

Motion: **TO APPROVE RESOLUTION NO. 2006-09.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Mayor Brown and Council presented a plaque of the adopted resolution to Director of Public Services Leon Smith for recognition of his 30 years of service with the city.

Mayor Brown and Vice Mayor Pruette presented a Proclamation to Curves in appreciation for their community service for collecting food for the Beaches Emergency Assistance Ministry.

Dufresne & Associates, Auditors for the city, presented the annual audit.

APPROVAL OF MINUTES

Moved by Weldon, seconded by Pruette.

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

APRIL 3, 2006, REGULAR CITY COUNCIL MEETING
APRIL 17, 2006, WORKSHOP CITY COUNCIL MEETING

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Councilor Lee stated he would like the Council to take a proactive approach dealing with growth changes in zoning and the comprehensive plan. He had sent a memo requesting this be placed on the workshop agenda.

Councilor Weldon stated he received a call from the Dalton Agency, a public relations firm, regarding the Wal-Mart proposal.

CITY MANAGER REPORT

- A beard and mustache contest would be held at the City's 75th Anniversary celebration.
- The Public Service Department was cleaning out the pond in Jarboe Park.
- The work on the tennis courts should be completed within a week.
- The lifeguards were now on duty.
- A group called the Neptune Volunteers rode in the "Opening of the Beaches Parade". The group was made up of former Neptune Beach volunteer fire fighters.

Councilor Weldon commended City Manager Jarboe for advising the city to purchase the menzi muck.

Councilor Lee was concerned about the number of trash and yard waste complaints. City Manager Jarboe responded that the waste services provider had been fined. The contract with the new provider, Waste Pro, would begin June 1, 2006.

PUBLIC COMMENTS

Karl Sanders, 6 East Bay Street, Jacksonville, Attorney for Wal-Mart, stated he had listened to and read the different opinions of the citizens regarding the Wal-Mart proposal. He further stated that if the plans for the Wal-Mart met the city code requirements that the Council had no legal reason to deny the proposal.

CONSENT AGENDA

Approval to allow the City Manager to cancel the service contract with Utility Services Co., for maintenance service of the water tower if necessary.

Approval of expenditure of forfeiture funds for the purchase of public safety equipment.

RESOLUTION NO. 2006-10: A RESOLUTION OF THE CITY COUNCIL OF NEPUTNE BEACH, FLORIDA, SUPPORTING THE ELIMINATION OF THE CAP OF THE FLORIDA

HOUSING TRUST FUNDS BEGINNING IN FISCAL YEAR 2007-2008 AND SUPPORTING FULL FUNDING FROM THE HOUSING TRUST FUNDS OF \$939.5 MILLION FOR HOUSING IN THE STATE FISCAL YEAR 2006-2007 BUDGET; AND PROVIDING FOR AN EFFECTIVE DATE.

Approval of a \$500.00 contribution for the commissioning of the USS Farragut.

Moved by Weldon, seconded by Pardee.

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

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

VARIANCES / NONE

ORDINANCES

Ord. No. 2006-04 **ORDINANCE NO. 2006-04, ELECTIONS, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 9 ELECTIONS SECTION 9-02 SCHEDULE FOR ELECTIONS AND PROVIDING AN EFFECTIVE DATE.**

Mayor Brown read Ordinance No. 2006-04 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. 2006-04 AS AMENDED ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2006-05 **ORDINANCE NO. 2006-05, RECYCLING, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 11, GARBAGE, TRASH AND INDUSTRIAL WASTE; SECTION 11-106 ESTABLISHED; FEES; CONTAINERS; CURBSIDE COLLECTIONS; TYPES OF MATERIALS TO BE COLLECTED AND PROVIDING AN EFFECTIVE DATE.**

Mayor Brown read Ordinance No. 2006-05 by title only and opened the public hearing.

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

Moved by Pardee, seconded by Pruette.

Motion: **TO ADOPT ORDINANCE NO. 2006-05 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2006-06 ORDINANCE NO. 2006-06, DEFINITION OF FAMILIES, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA RELATING TO DEFINING FAMILIES; PROHIBITING OCCUPANCY OF FAMILY DWELLING UNITS BY UNRELATED PERSONS ABOVE A SPECIFIED NUMBER; PROVIDING PENALTIES AND VIOLATIONS; AMENDING SECTION 27-15 DEFINITION OF FAMILY; AMENDING SECTION 27-333 RELATING TO PROHIBITED ACTIVITIES AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown read Ordinance No. 2006-06 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 Lee.

Motion: **TO ADOPT ORDINANCE NO. 2006-06 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2006-08 ORDINANCE NO. 2006-08, ZONING DISTRICTS, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING SECTION 27-222(2)(C) PURPOSE AND INTENT OF ZONING DISTRICTS; AMENDING SECTION 27-238 MAXIMUM LOT COVERAGE AND ADDING FOOTNOTE (6) TO TABLE 27-229-1 IN THE CODE OF ORDINANCES LIMITING FLOOR SPACE IN C-1, C-2 AND C-3 ZONING DISTRICTS TO 60,000 SQUARE FEET AND PROVIDING AN EFFECTIVE DATE.

Councilor Weldon stated he and City Attorney Chris White amended the language as follows: Located within 1,000 feet of each other that operate under common business ownership or management, share warehouse or distribution facilities or otherwise operated as an associated integrated or cooperative business shall not combine to exceed 60,000 square feet of total gross floor area.

Councilor Pardee voiced concern regarding the legality of the ordinance and the possibility of a lawsuit. He questioned each councilor, if this ordinance was adopted, and the square footage limited to 60,000 square feet, would they accept a 60,000 square foot Wal-Mart.

Councilor Lee redirected the question and stated that he viewed this ordinance as unrelated to Wal-Mart. He agreed with the ordinance if it limited all stores to 60,000 square feet in order to prevent big boxes.

Mayor Brown replied if the ordinance passed and held up he would have to welcome anybody who occupied the space.

Vice Mayor Pruette felt the Bert Harris Act did not apply to this ordinance because it limited actual floor space and did not take any property from the property owner. She added that applicants could always request a variance.

Councilor Weldon questioned Councilor Pardee why he was so concentrated on discussing the Bert Harris Act. He felt the litigation should be left to the attorneys and not be speculated on. He stated if Wal-Mart came in with a proposal for a 60,000 square foot store which met the other perimeters of the Code and was successfully processed through the planning and

development review he would reconsider.

City Attorney White advised that the city had the right to adopt this type of ordinance adding that other cities throughout the United States had adopted similar ordinances. The timing of the proposed ordinance may be an issue. He felt it was critical under Florida law that Wal-Mart had full knowledge of the proposed ordinance when they submitted there application.

Councilor Pardee was concerned about the cost of a lawsuit.

Moved by Weldon, seconded by Pruette.

Motion: **TO PASS ORDINANCE NO. 2006-08 ON FIRST READ.**

Roll Call Vote:

Ayes: 4 – Lee, Pruette, Weldon, Brown

Noes: 1 – Pardee

MOTION CARRIED

OLD BUSINESS / NONE

NEW BUSINESS

PDRB06-02

DEVELOPMENT ORDER PDRB06-02, 2109 ATLANTIC BOULEVARD, JONATHAN PLUMB, FOR THE PROPERTY FORMERLY KNOWN AS VIXEN'S: Mr. Jonathon Plumb, 2801 Ocean Drive South, Jacksonville Beach, property owner, described the project. He wanted to demolish the old Vixen's Show Bar and construct a professional office building on the site. Mr. Plumb added there was a triangle portion of property owned by the city abutting the site that he would like to acquire for the project.

City Attorney White stated before the city could approve the request they would need Mr. Plumb to provide the city with a survey at his expense. The city would also hire a surveyor at his expense to make sure the property belonged to the city. Mr. Plumb would also need to provide a title search.

Consensus: **TO APPROVE THE PLANS CONCEPTUALLY AND HAVE MR. PLUMB REAPPEAR BEFORE THE COUNCIL WITH FINAL PLANS AND PLACE THE ABANDONMENT OF PROPERTY ON THE MAY WORKSHOP AGENDA.**

PDRB06-03

DEVELOPMENT ORDER PDRB06-03, 1311 ATLANTIC BOULEVARD, PENMAN PLAZA ASSOCIATES, SONIC: City Manager Jarboe stated that currently traffic had to make a U-turn to enter the Sonic. This would provide a driveway entrance through the traffic light on Atlantic Boulevard. The driveway would be on the Penman Plaza property and used by Sonic through an easement agreement. Signage would also be provided to direct traffic flow.

Moved by Weldon, seconded by Lee.

Motion: **TO APPROVE THE DEVELOPMENT ORDER FOR 1311 ATLANTIC BOULEVARD, SONIC.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Res. No. 2006-11

RESOLUTION NO. 2006-11: A RESOLUTION IN SUPPORT FOR THE EXPANSION OF JTA BUS SERVICE TO NORTHERN ST. JOHNS COUNTY.

Moved by Weldon, seconded by Pruette.

Motion: **TO ADOPT RESOLUTION NO. 2006-11.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Councilor Weldon stated one of the items Wal-Mart would need to submit to the Planning and Development Review Board was a traffic study. He was concerned that a traffic study commissioned by Wal-Mart would be in their favor. He felt the city should commission an independent traffic study.

City Manager Jarboe stated he was in the process of receiving quotes for obtaining a traffic study.

Councilor Pruette suggested the City write a letter to Wal-Mart representatives asking them to pay for a traffic study commissioned by the city.

Consensus: **TO HAVE THE CITY SEND A LETTER TO KARL SANDERS, THE ATTORNEY FOR WAL-MART ASKING THEM TO COOPERATE AND PAY FOR A TRAFFIC STUDY COMMISSIONED BY THE CITY.**

City Attorney White suggested that the letter come from the City Manager.

Fred Cattar, Chairman of the Planning & Development Review Board, questioned if the planning board should delay their meeting scheduled for May 16, 2006 until the traffic study was received.

City Manager Jarboe advised that staff would determine if the meeting needed to be postponed depending on the all the information being received.

Councilor Weldon advised Mr. Fred Cattar that the Planning & Development Review Board should consider the development order cautiously and not rush into a decision.

Adjournment

There being no further business, the meeting adjourned at 8:45 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____