



MINUTES
REGULAR CITY COUNCIL MEETING
SEPTEMBER 11, 2006 7:00 P.M.
FLETCHER HIGH SCHOOL AUDITORIUM
700 SEAGATE AVENUE
NEPTUNE BEACH, FLORIDA

Pursuant to proper notice a Regular Meeting of the City Council of the City of Neptune Beach was held September 11, 2006 at 7:00 p.m., in the Fletcher High School Auditorium, 700 Seagate Avenue, 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

Assistant to the City Manager Terry Klein
 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 Weldon.

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

AUGUST 7, 2006, REGULAR COUNCIL MEETING
AUGUST 21, 2006, WORKSHOP COUNCIL MEETING

Roll Call Vote:

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

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Vice Mayor Pruette thanked staff for their efforts in setting up the meeting at the Fletcher High School Auditorium.

City Clerk Lisa Volpe reminded Council that the September workshop meeting was scheduled for September 25, 2006, following the final hearing on the budget, and would begin at 6:00 p.m.

CITY MANAGER REPORT

City Manager Jarboe reported the following:

- The first public hearing for the millage rate FY2006-2007 was held.

CONSENT AGENDA / NONE

VARIANCES / NONE

ORDINANCES / NONE

OLD BUSINESS / NONE

PUBLIC COMMENTS ON THE WAL-MART DEVELOPMENT ORDER

The following citizens spoke in opposition of the Wal-Mart Development Order:

- Lehman McDonald, 1140 Florida Boulevard, Neptune Beach
- Michael Aston, 1523 Summer Sands Drive, Neptune Beach
- Julia Crews, 622 Seventh Avenue North, Jacksonville Beach
- Kris Matson, 540 Hopkins Street, Neptune Beach
- Clyde King, 700 Cherry Street, Neptune Beach
- Valerie Britt, 278 Tilefish Court, Atlantic Beach
- Wes Gibbs, 1501 First Street, Neptune Beach
- Jerry Albert, 1415 Big Tree Road, Neptune Beach
- Ronda McDonald, 515 Third Street, Neptune Beach
- Joan Hutchinson, 1100 Seagate Avenue, Neptune Beach
- Marsha Coker, 206 Margaret Street
- Neil McGuinness, 1629 Beach Avenue, Atlantic Beach
- Lori Armstrong, 400 Garden Lane, Atlantic Beach
- Neal Hutchinson, P. O. Box 51494, Jacksonville Beach
- Linda Banister, 826 Thirteenth Avenue North, Jacksonville
- Denise Rubin, 229 Pine Street, Atlantic Beach
- Alan Martin, 1113 First Street, Neptune Beach
- Rose Marie Campbell, 1412 Strand Street
- Alice Conte, 805 Cherry Street, Neptune Beach
- Catherine Davidson, 1913 Sevilla Boulevard West, Atlantic Beach
- Everett Crain, 146 Sand Castle Way, Neptune Beach
- Jennifer Lavore, 120 Cherry Street, Neptune Beach
- Joe Quest, 960 Hagler Drive, Neptune Beach

The following citizens spoke in favor of the Wal-Mart Development Order.

- Michael Plasker, 1 Brookhaven Drive, Unit 302, Atlanta, Georgia
- Dana Pardee, 1421 Penman Road, Neptune Beach

There being no further comments the public hearing was closed.

NEW BUSINESS

Mayor Brown amended the agenda to move Development Order PDRB06-06 forward.

PDRB06-06
630 Atlantic Blvd.

DEVELOPMENT ORDER PDRB06-06 – 630 ATLANTIC BOULEVARD – WAL-MART – LAKESHORE VILLAGE: Consider approval of development order PDRB06-06 for Wal-Mart, 630 Atlantic Boulevard, for proposed construction of a 117,000 square feet retail center for use as Wal-Mart Supercenter.

City Attorney White asked City Clerk Lisa Volpe to swear in all witnesses. City Clerk Volpe swore in the witnesses.

Karl Sanders, attorney and representative for Wal-Mart, stated the decision regarding the development order should be based on the current laws in the Code, not the citizens opposition of Wal-Mart, the proposed user of the property.

Mr. Sanders cited Section 27-223 of the Code. Regulations to apply uniformly throughout zoning district. The regulations for each zoning district as contained in this Code shall apply uniformly to each structure and use and to all land and water within the boundaries of the zoning district.

Mr. Sanders submitted exhibits of traffic studies conducted by CPH Engineers and Beachside Engineering, as evidence.

City Attorney White questioned if those exhibits included the study conducted by the Florida Department of Transportation. Mr. Sanders responded no they did not. City Attorney White stated the City would then submit the traffic study conducted by the Florida Department of Transportation as evidence.

Mr. Sanders asked Council to disclose any ex parte communications.

Councilor Weldon disclosed he had spoken to constituents regarding their opinions and gathered evidence regarding the development application.

Vice Mayor Pruette disclosed she had spoken to constituents, some in favor of the development, and some opposed to the development. She specifically mentioned she had spoken with Jack Proctor, Proctor Ace Hardware.

Mayor Brown disclosed many e-mails and letters had been received and copied to the Council by the City Clerk's Office. He had also received voice mails left on his home telephone asking him to vote no on the development order.

Councilor Lee disclosed he also had discussions with citizens via telephone and e-mails.

Councilor Pardee disclosed he had researched concurrency issues. He heard opposition from approximately 194 citizens, which was approximately 2% of the population of the city.

Mr. Sanders questioned if Council had discussions with the city staff regarding the development order.

Council replied with a unanimous yes.

Mr. Sanders questioned if council members had discussed the application with City Attorney White. Council replied with a unanimous yes.

Mr. Sanders called on witness Richard McCoven, Senior Traffic Engineer for CPH Engineers, 6675 Corporate Center Parkway, Jacksonville, Florida.

Mr. Sanders questioned Mr. McCoven regarding the traffic study prepared by CPH Engineers.

Mr. Sanders questioned City Manager Jarboe regarding Article VI. Concurrency. City Manager Jarboe replied in his opinion the development order did not meet any exemptions based on the number of proposed daily trips.

Mr. Sanders asked City Manager Jarboe if the city required Ace Hardware on Atlantic Boulevard to conduct a traffic study prior to their expansion. City Manager Jarboe stated the Ace Hardware property had vested rights and a traffic study was not required.

Mr. Sanders asked City Manager Jarboe if the Aqua East Surf Shop expansion was a legally conforming structure and if it was required to be setback 50 feet from Atlantic Boulevard. Mr. Jarboe replied the city was in the process of hiring a new Community Development Director and he would have to research the answer to the question.

Recess/Reconvene Mayor Brown called a recess at 9:10 p.m. and reconvened the meeting at 9:30 p.m.

City Attorney White stated he may not have disclosed earlier that he had met with each council member and Brenna Durden, Land Development Attorney, regarding the development order application, and would now like to disclose that information.

Mr. Sanders continued to question City Manager Jarboe regarding concurrency.

Michael Plasker, owner of the property, stated the current shopping center was 150,000 square feet and the proposed Wal-Mart would actually reduce the overall size of the building to 117,000 square feet.

Mr. Steve Bollock, attorney for Mr. Plasker, stated as the owner of the property Mr. Plasker had vested rights and Council should not be swayed by the constituents but should base their decision upon the laws and evidence presented, and thereby grant the development order.

A question and answer period ensued between the Council, Mr. Plasker, Mr. Bollock and Mr. Sanders regarding traffic and the level of service requirements of Atlantic Boulevard.

Ms. Martha Moore, Beachside Engineering, answered questions from Mr. Sanders and the Council regarding the traffic study she conducted for the city.

Mr. Karl Sanders stated the applicant met all Code requirements and asked the Council to apply the laws equally and grant the development order.

Moved by Pardee.

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

MOTION FAILED FOR LACK OF SECOND.

Moved by Weldon, seconded by Pruette.

Motion: **TO DENY THE APPLICATION PDRB06-06 BASED ON THE FAILURE TO MEET LEVEL OF SERVICE REQUIREMENTS OF THE COMP PLAN AND FAILURE TO CONFORM TO SCALE MASS AND BULK GUIDANCE OF THE CODE 27-222; AND FURTHER IN ACCORDANCE WITH SEC. 27-82(h)(2) TO REFUSE TO ISSUE A FINAL DEVELOPMENT ORDER IF IT IS NOT POSSIBLE FOR THE PROPOSED DEVELOPMENT, EVEN WITH REASONABLE MODIFICATION, TO MEET THE REQUIREMENT OF THIS CODE.**

Councilor Pardee was concerned if the development was denied due to the concurrency there could not be additional traffic in the future for future development orders.

Roll Call Vote:

Ayes: 4 – Lee, Pruette, Weldon, Brown

Noes: 1 – Pardee

MOTION CARRIED

V06-10
120 Lemon St.

VARIANCE REQUEST V06-10 – 120 LEMON STREET – ETIENNE LAGNIAPPE: Consider approval of variance request V06-10, for Etienne Lagniappe, 120 Lemon Street, for relief of two parking spaces as required in Section 27-540(a) Required off-street Parking, Table 27-540-1.

Moved by Weldon, seconded by Pruette.

Motion: **TO APPROVE V06-10, 120 LEMON STREET.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

PDRB06-09
120 Lemon St.

DEVELOPMENT ORDER PDRB06-09 – 120 LEMON STREET – ETIENNE LAGNIAPPE: Consider approval of development order PDRB06-09 for Etienne Lagniappe, 120 Lemon Street, for change of use from residential to commercial for use as an art gallery. (Subsequent to the approval of variance request V06-10)

Moved by Weldon, seconded by Pruette.

Motion: **TO APPROVE PDRB06-09, 120 LEMON STREET WITH THE STIPULATION THAT THE DEVELOPMENT COMPLY TO ALL ADA REQUIREMENTS.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

V06-11
696 Atlantic Blvd.

VARIANCE RERQUEST V06-11 – 696 ATLANTIC BOULEVARD – SHAUNA MOORE D/B/A AQUA EAST: Consider approval of variance request V06-11 for Shauna Moore, 696 Atlantic Boulevard, proposing to vary the side yard, corner side yard, rear yard and impervious surface requirements for construction of an addition on the east side of the existing building.

Consensus: **TO DEFER VARIANCE REQUEST FOR SHAUNA MOORE – AQUA EAST SURF SHOP AS REQUESTED BY THE APPLICANT UNTIL SEPTEMBER 25TH 2006.**

Adjournment

There being no further business, the meeting adjourned at 10:45 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____