



**MINUTES
REGULAR CITY COUNCIL MEETING
MAY 7, 2007 AT 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 7, 2007 at 7:00 p.m., in the City Hall Council Chambers, 116 First Street, Neptune Beach, Florida.

Attendance

IN ATTENDANCE:

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

STAFF:

Community Development Director Amanda Askew
Assistant Chief Anthony Carrillo
Director of Finance Steve Ramsey
Director of Public Safety David Sembach
Director of Public Services Leon Smith
Deputy City Clerk Karla Strait, CMC

ABSENT:

City Attorney Christopher White

Order Call/Pledge

Mayor Brown called the meeting to order at 7:00 p.m. and asked Councilor Lee to lead the pledge of allegiance.

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS

Res. No. 2007-04

RESOLUTION NO. 2007-04, SUPPORTING CARL HASHEY: A RESOLUTION OF THE CITY OF NEPTUNE BEACH, FLORIDA SUPPORTING LOCAL RESIDENT AND CITY EMPLOYEE CARL HASHEY IN THE IRON TORCH RIDE.

Moved by Pruette, seconded by Weldon.

Motion: **TO ADOPT RESOLUTION NO. 2007-04.**

Roll Call Vote:

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

MOTION CARRIED

City Clerk Volpe read Resolution 2007-04 aloud for the assembly.

Mayor Brown presented the Resolution to Mr. Hashey.

METROPOLITAN PLANNING ORGANIZATION PRESENTATION: Wanda Forrest gave a

presentation on future Transportation Improvement Plans.

APPROVAL OF MINUTES

Moved by Weldon, seconded by Pruette.

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

APRIL 2, 2007, REGULAR CITY COUNCIL MEETING
APRIL 16, 2007, WORKSHOP CITY COUNCIL MEETING

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Vice Mayor Pruette questioned if the trees in the Atlantic Boulevard median would have to be removed in order for the new turn lane for Wal-Mart to be installed.

Vice Mayor Pruette thanked Carl Hashey for the construction of the handicap walkover on Hopkins Street. She recommended the walkover be dedicated to the late Jill Bronner.

Councilor Pardee disclosed he had spoken with Daryl Grubbs, Steven Carter and Steve Jarrett in regards to the dock ordinance.

Councilor Lee disclosed he had also spoken with Daryl Grubbs, Steven Carter and Steve Jarrett regarding the dock ordinance.

Vice Mayor Pruette disclosed she had spoken with Steven Carter, Bob Cooper, Jimmy Gilbert, and Steve Jarrett regarding the dock ordinance. She spoke with Darrell Grubbs regarding the R-1 setback ordinance. She spoke with Rosemary Naughton and Christine Chin regarding the short term rental ordinance. She spoke with Alison Forsyth regarding the Aqua East Surf Shop development order. She spoke with Daryl Grubbs regarding the Seafood Galore special exception. She spoke with Steve Jarrett and Daryl Grubbs regarding the Seagate Shores final plat and final development order. She spoke with Terry Bagby, Owen McCuller, Daryl Grubbs, Michael Aston and Ron Davis regarding the Aamco special exception and development order.

Councilor Weldon disclosed he spoke with Mr. Steve Jarrett regarding the Seagate Shores development.

Mayor Brown disclosed he spoke with Steve Jarrett and Daryl Grubbs regarding the Seagate Shores development.

CITY MANAGER REPORT

City Manager Jarboe reported on the following:

- The Florida Legislator will be holding a special session in June regarding property tax reform. Meanwhile, the city has placed a moratorium on any non budgeted items, expenditures, travel, renewal of subscriptions, organizational memberships, hiring, and filling vacant positions. He hoped to place the money that budgeted for these items for this year into the reserve fund for next year. When the special session is completed on June 22, 2007 the city should know how it will be affected. The budget process will hence be delayed approximately five weeks. Labor negotiations for the three year union contracts are also due this

- year.
- The City of Jacksonville Council members would be meeting with the Atlantic Beach Council members regarding the proposed Moody Condominium development proposed for the west side of the intracoastal. Neptune Beach council members are also invited to attend if interested.
- All beach walkovers should be completed in approximately one week.
- The city was still in the running for grant money to use toward the state mandated nitrogen removal.

Councilor Lee questioned if City Manager Jarboe had met with the Department of Transportation regarding lights and intersections along Atlantic Boulevard. City Manager Jarboe responded he was still corresponding with the DOT.

City Clerk Lisa Volpe asked council members to contact her if they were interested in attending the Florida League of Cities monthly dinner. The dinner would be hosted by the three beach cities on May 17, 2007 at the Casa Marina. Reservations were required before May 11, 2007 and the cost was \$25.00 per person.

PUBLIC COMMENTS

Pat Hazori, 207 Florida Boulevard, requested the city designate four streets as pedestrian corridors.

Michael Aston, 1523 Summer Sands Drive, opposed the development order for Aamco and favored the dock ordinance.

Daryl Grubbs, 1919 Nightfall Drive, suggested changing the side yard setback to 12 feet or 10% of the total lot width in Ordinance No. 2007-06

Bill Green, 106 Bay Street, was concerned about a construction site at the Bay Street beach access.

Leslie Karlin, 1506 Spindrift Circle, felt the rear doors to the city hall building should be unlocked during council meetings. She also felt the streets should be better maintained.

Mayor Brown called a recess at 7:40 p.m. and reconvened the meeting at 7:50 p.m.

CONSENT AGENDA

LEWIS, LONGMAN AND WALKER, P.A.: To not pay the additional fees to Lewis, Longman, & Walker, P.A.

Moved by Pruette, seconded by Weldon.

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. 2007-02

ORDINANCE NO. 2007-02, AMENDING CHAPTER 27, ARTICLE IV, LAND USE, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF

NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27, ARTICLE IV, LAND USE, ADDING SECTION 27-243, PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS AND PROVIDING AN EFFECTIVE DATE.

Ordinance could not be voted on until after it went to the Planning and Development Review Board.

Moved by Weldon, seconded by Pruette.

Motion: **TO IMPOSE A 90 DAY MORATORIUM ON ALL DOCK CONSTRUCTION IN THE CITY OF NEPTUNE BEACH WHILE THE CITY COUNCIL DEBATES FINAL PASSAGE OF THE ENVIRONMENTAL SENSITIVE LANDS ORDINANCE AND MAKES APPROPRIATE ADJUSTMENTS TO THE TABLE OF PERMISSIBLE USES.**

For the Record Councilor Pardee reiterated for the record he felt the way the ordinance was written was illegal and needed to be rewritten before forwarding to the Planning & Development Review Board.

Mayor Brown stated the Council needed to get an opinion from City Attorney White.

For the Record Vice Mayor Pruette stated for the record she would like for City Attorney White to give Council a written legal opinion on the issues raised in reference to the Ordinance.

For the Record Councilor Lee stated for the record he would like for City Attorney White to give an opinion on the permissible use table.

Roll Call Vote:

Ayes: 3 – Lee, Pruette, Weldon

Noes: 2 – Pardee, Brown

MOTION CARRIED

Ord. No. 2007-04 **ORDINANCE NO. 2007-04, CONCURRENCY, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS, SECTION 27-350, PROCEDURE FOR APPLYING FOR AND ISSUING A CONCURRENCY CERTIFICATE AND PROVIDING AN EFFECTIVE DATE.**

Consensus: **FORWARD TO THE PLANNING AND DEVELOPMENT REVIEW BOARD IN MAY AND THE JUNE REGULAR CITY COUNCIL MEETING FOR SECOND READ.**

Ord. No. 2007-05 **ORDINANCE NO. 2007-05, PER DIEM, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 2 ADMINISTRATION BY AMENDING SECTION 2-355 SUBSISTENCE AND PROVIDING AN EFFECTIVE DATE.**

Mayor Brown stated it was suggested that Ordinance No. 2007-05 be deferred due to the expected legislative actions to reform property taxes and the moratorium on all travel.

Councilor Weldon stated employees were entitled to reasonable compensation for daily service rates while traveling on business. Whether or not the budget allowed employee travel was another question. He felt the Council should go ahead and vote on the ordinance.

Mayor Brown read Ordinance No. 2007-05 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 Lee.

Motion: **TO ADOPT ORDINANCE NO. 2007-05 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2007-06

ORDINANCE NO. 2007-06, AMENDING TABLE 27-229-1, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING TABLE 27-229-1 CHANGING SIDE YARD SETBACK IN R-1 AND THE LOT SIZE FOR 35 FEET BUILDING HEIGHT AND PROVIDING AN EFFECTIVE DATE.

Community Development Director Amanda Askew stated the Planning & Development Review Board recommended increasing the minimum side yard setback to 12 feet in order to keep the houses further apart. The current regulations allowed 10% of the lot width with a minimum of 7 feet. The proposed change was to increase the minimum side yard setback to 12 feet.

Councilor Lee stated he spoke with Mr. Darrell Grubbs and Mr. Steve Jarrett who suggested reducing the side yard setbacks from 12 feet to 10 feet.

Mrs. Askew recommended keeping the current minimum standard of 10% of the lot width.

Mayor Brown was concerned the current side yard setbacks were based on the dense area east of Third Street and the lots were much larger west of Third Street.

Councilor Weldon stated the lots in question were on the marsh and the developers would like to build as large of a house as possible. He was concerned the houses would be too close to one another.

Councilor Lee asked if the Council could hear from the developers.

Mr. Steve Jarrett suggested leaving the side yard setbacks at 10%, which would allow 20 feet between structures.

Mr. Darrell Grubbs was concerned triangular shaped lots would be at a disadvantage. He suggested the 10% with a maximum of 10 feet and a minimum of 7 feet in an effort to benefit triangular shape lots.

Councilor Weldon stated that would allow for a 7 feet on one property and 7 feet on the property next door for a total of only 14 feet between houses. Mr. Grubbs felt 14 feet between houses was appropriate for the smaller lots.

Councilor Weldon explained it was up to the developer to carve up potential plats in order to sell individual lots. If the developer chose to plat a triangle shaped lot to sell, then the developer has to accept the limitation that comes with the setback of such lot.

City Manager Jarboe recommended sending the proposed ordinance back to a workshop meeting.

Councilor Weldon stated he modified the language in the second portion of the proposed ordinance to better define paragraph five on page two. He asked Mrs. Askew to read the paragraph. Mrs. Askew read the following: For lots in the R-1 zoning district that have a minimum lot size of 12,000 square feet and a 100 feet lot width as measured at the

building line parallel to the front face of the house and perpendicular to the primary side yard. 35 feet of the maximum building height will be permitted so as long as the primary roof structure is built at a minimum 5/12 roof pitch and not to exceed two stories of living area.

Moved by Weldon, seconded by Lee.

Motion: **TO PASS ORDINANCE NO. 2007-06 AS AMENDED WITH 10' SIDE YARD SETBACKS ON FIRST READ AND FORWARD TO THE MAY WORKSHOP.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2007-07

ORDINANCE NO. 2007-07, SHORT TERM RENTALS, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 ARTICLE I, SECTION 27-15 DEFINITIONS, ADDING THE DEFINITION OF SHORT TERM RENTALS, AND AMENDING ARTICLE IV, LAND USE, SECTION 27-225(1) AND PROVIDING AN EFFECTIVE DATE.

Councilor Weldon stated the ordinance was primarily directed at the residential area east of Third Street. He had been contacted from residents concerned about short term rentals of townhouses and cottages on the oceanfront. The problem was landlords were violating the law because they were using residential property for commercial use.

Mayor Brown stated this would eliminate the one week rentals and spring break party renters.

Councilor Pardee felt an ordinance was not necessary and the problem could be solved by enforcing the noise and parking ordinances.

Moved by Weldon, seconded by Pruette.

Motion: **TO PASS ORDINANCE NO. 2007-07 ON FIRST READ FORWARD TO MAY WORKSHOP.**

Roll Call Vote:

Ayes: 4 – Lee, Pruette, Weldon, Brown

Noes: 1 – Pardee

MOTION CARRIED

OLD BUSINESS NONE

NEW BUSINESS

PDRB07-01
696 Atlantic Blvd.
Aqua East

PDRB07-01, DEVELOPMENT ORDER FOR AQUA EAST SURF SHOP, 696 ATLANTIC BOULEVARD, MS. SHAUNA FORSYTH MOORE: The applicant is proposing a one-story, 10,663 square foot addition to an existing retail building. The new addition is on the eastern side of the existing building towards the rear of the property. The existing landscape and sidewalks will not be changed and minor modifications will be made to the parking lot.

Moved by Pruette, seconded by Lee.

Motion: **TO APPROVE THE DEVELOPMENT ORDER FOR AQUA EAST SURF SHOP, 696 ATLANTIC BOULEVARD.**

Councilor Weldon suggested amending the motion to approve to be contingent on approval of the stormwater runoff provisions as submitted in the application. The application was based on the ability to use the drainage pipe on the new Wal-Mart building site. City Manager Jarboe felt this did not need to be in the motion because they could not obtain a building permit without approval from St. Johns River Water Management District.

A representative for Aqua East stated he had spoke with the Wal-Mart representatives, lawyers, and engineers and they agreed on both the drainage easement and the parking easement. The sidewalks have also been changed from impervious concrete to pervious pavers.

Roll Call Vote:

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

MOTION CARRIED

PDRB07-02
1589 Atlantic Blvd.
Seafood Galore

PDRB07-02, SPECIAL EXCEPTION FOR SEAFOOD GALORE / TRADEWINDS PLAZA, 1589 ATLANTIC BOULEVARD, MR. GREGORY COVIELLO: The applicant is proposing to add outdoor seating on the sidewalk between the building and parking lot and not on public property. The proposed outdoor seating area will have three (3) to five (5) tables in a ten (10) feet wide by six (6) feet deep area, leaving 3.9 feet of sidewalk between the tables and the parking lot.

Mr. Gregory Coviello, owner of Seafood Galore explained they wanted to place a few tables on the sidewalk for outdoor dining. The restaurant closed at 9:00 p.m. during the week and 10:00 p.m. on the weekends. There would be no live music and parking was not an issue.

City Manager Jarboe suggested adding the following special conditions as recommended by the Planning & Development Review Board: 1) no more than four tables, 2) close at 9:00 p.m. during the week and 10:00 p.m. on the weekend, 3) sidewalk is 9.5 feet wide with tables using 6 feet, 4) no live music, and 5) meeting handicap accessibility guidelines.

Councilor Weldon questioned if the outdoor dining area would be smoking or non-smoking. Mr. Coviello responded it would be a smoking area.

Moved by Pardee, seconded by Pruette.

Motion: **TO APPROVE SPECIAL EXCEPTION FOR SEAFOOD GALORE / TRADEWINDS PLAZA, 1589 ATLANTIC BOULEVARD WITH THE FOLLOWING SPECIAL CONDITIONS: 1) NO MORE THAN FOUR TABLES, 2) CLOSE AT 9:00 P.M. DURING THE WEEK AND 10:00 P.M. ON THE WEEKEND, 3) SIDEWALK IS 9.5 FEET WIDE WITH TABLES USING 6 FEET, 4) NO LIVE MUSIC, AND 5) MEETING HANDICAP ACCESSIBILITY GUIDELINES.**

Roll Call Vote:

Ayes: 4 – Lee, Pardee, Pruette, Brown
Noes: 1 – Weldon

MOTION CARRIED

PDRB07-03
Seagate Shores
Steve Jarrett

PDRB07-03, DEVELOPMENT ORDER FOR SEAGATE SHORES SUBDIVISION, MR. STEVE JARRETT: Development order for the proposed Seagate Shores Subdivision as submitted by Mr. Steve Jarrett.

Councilor Weldon questioned if the street end would be preserved for public access. He did not have a problem with the development as long as conditions were included that the street end would be preserved and any landscaping done within the street end would be approved by the city.

Mr. Jarrett replied that the cul-de-sac would extend out as a street bending around the oak tree. There would be driveway off the street end immediately perpendicular so that it would look like a driveway coming off the street. The homeowners association would install and maintain the landscaping within the cul-de-sac with approval from the city. The association would also install a sprinkler system for irrigation.

For the Record Councilor Weldon asked that the record show that Mr. Jarrett has agreed to the original curved street end coming off of the cul-de-sac with two driveways perpendicular to the extended street end and no other curb cuts or driveways coming off of that extension and to the landscaping of the area by the homeowners association but with approval of the city.

For the Record Vice Mayor Pruette stated for the record that the public right of way would in no way appear as private property and would be open to the public.

Moved by Pardee, seconded by Lee.

Motion: **TO APPROVE FINAL DEVELOPMENT ORDER AND FINAL PLAT FOR SEAGATE SHORES SUBDIVISION WITH THE STIPULATIONS THAT COUNCILOR WELDON STATED FOR THE RECORD.**

Roll Call Vote:

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

MOTION CARRIED

PDRB07-04
Aamco
2100 Florida Blvd.

PDRB07-04, SPECIAL EXCEPTION FOR AAMCO, 2100 FLORIDA BOULEVARD, LLC, MR. OWEN MCCULLER, ESQ.: The applicant is requesting a special exception to allow the use of a motor vehicle service by special exception in the C-2 zoning district at 2100 Florida Boulevard.

Mr. Mack McCuller, representative for Mr. Terry Bagby, AAMCO, 2100 Florida Boulevard, LLC, stated the city recently adopted an ordinance allowing motor vehicle service in the C-2 zoning district. He explained the applicant was willing to agree to the following conditions:

1. No outside storage of junk or inoperable vehicles not under active repair.
2. On open bay/garage doors providing access to work areas, facing an adjoining residential zoning district on the non street frontages.
3. An opaque fence or wall, providing a minimum opacity of 85%, at least 6 feet in height enclosing the rear yard.
4. Visual landscape screen along the street frontage adjacent to the parking areas at least 3 feet in height, providing minimum opacity of 85%.
5. Hours of operation shall be limited between 7:00 a.m. to 8:00 p.m.
6. Exterior lighting shall be shielded or recessed so as to limit impacts to adjacent properties.
7. Used oil and other regulated substances shall be stored properly within enclosed structures, except as may be otherwise required by law for public health and safety.
8. Trash receptacles, dumpster and above-ground tanks and containers shall be screened from view by fencing or landscaping or otherwise not visible from ground

level on adjacent properties or streets, except as otherwise required by law for public health and safety.

9. Reduce the signage to an 8 feet monument sign with a 50 square foot maximum sign space.
10. Conduct all activities in the enclosed building
11. Paving of Kings Circle from Florida Boulevard to the end of his property on both sides of the road at his cost.

Mr. McCuller explained Mr. Bagby paid \$400,000 for the 60 feet by 130 feet private property that he wished to improve. The building was 3,360 square feet leaving no room to provide for the required parking spaces. However, their application does meet the required 11 parking spaces because they could park cars inside the building. Mr. Bagby has also made an arrangement with Auto Store Towing in Atlantic Beach to store overflow vehicles off site.

Mr. McCuller felt the application met the code requirements and he went over the following standards:

- The proposed use was consistent with the comprehensive plan.
- The proposed use would be compatible with the general character of the area considering density, design, scale, location, orientation of existing permissible structures.
- The commercial use would not have a detrimental affect of other commercial uses under the comprehensive plan.
- The proposed use would not overburden existing public services. It would not impact the traffic.
- The proposed use meets all of the requirements as provided elsewhere in the code.

Councilor Pardee was concerned about noise and employee parking conditions. Mr. McCuller explained Mr. Bagby was trying to acquire additional neighboring property for parking.

Councilor Weldon was concerned about vehicles parking on a large concrete apron abutting the bike and pedestrian path on the western side of the property. He questioned how they would prevent vehicles from blocking the bike path. Mr. Bagby stated he would remove the concrete apron if it was a condition for approval.

Vice Mayor Pruette also felt parking was a problem.

Mr. McCuller recognized the parking concern but explained no other business would be able to park cars inside the building. He felt the Aamco would be an improvement to the neighborhood.

For the Record City Manager Jarboe stated the business did not meet parking requirements because of the interior parking. He stated the indoor parking spaces could be counted as required parking spaces.

Moved by Weldon, seconded by Pruette.

Motion: **TO DENY AND SUPPORT THE PLANNING & DEVELOPMENT REVIEW BOARD IN THEIR DENIAL OF PDRB07-04 SPECIAL EXCEPTION.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

PDRB07-05
Aamco
2100 Florida Blvd.

PDRB07-05, DEVELOPMENT ORDER FOR AAMCO, 2100 FLORIDA BOULEVARD, LLC, MR. OWEN MCCULLER, ESQ.: Development order for a motor vehicle service located at 2100 Florida Boulevard.

Consensus: **DUE TO THE DENIAL OF THE SPECIAL EXCEPTION THE DEVELOPMENT ORDER WAS NOT VOTED ON.**

Sign Ord.

Temporary waiver of the sign ordinance to allow TPC – Tournament Players Championship – flags to be placed on light poles.

Councilor Weldon was concerned about setting a precedent for other event planners.

Consensus: **TO NOT PLACE TPC FLAGS ON LIGHT POLES.**

Vice Mayor Pruette suggested that the Planning & Development Review Board put all stipulations for approval of development into their motion.

Councilor Lee instructed City Manager Jarboe to handle the situation of basketball courts and parking in street end city right-of-ways.

Councilor Pardee stated Community Development Director Amanda Askew was currently putting together a map of the city’s major intersections to work with the City of Jacksonville’s pectrometry program. This would be able to identify and locate GPS coordinates and parcels in the event of a disaster. The city would incur no expenses other than perhaps printing.

Councilor Pardee stated he had a video recording of a Bard Owl eating a snake in his yard. City Clerk Lisa Volpe stated she would try putting the video on the city website.

Adjournment

There being no further business, the meeting adjourned at 9:45 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____