



MINUTES
REGULAR CITY COUNCIL MEETING
JANUARY 7, 2008 AT 6:00 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 January 7, 2008 at 6:00 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 Amanda Askew
 Plants Division Supervisor Mark Greenwood
 Senior Activities Center Director Leslie Lyne
 Director of Finance Steve Ramsey
 Director of Public Safety Chief Sembach

Order Call/Pledge

Mayor Brown called the meeting to order at 6:00 p.m. and led the pledge of allegiance.

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS

Mayor Brown presented a Proclamation to Mr. Timothy Slater recognizing his service on the Ish Brant Beautification Committee.

APPROVAL OF MINUTES

Moved by Pruette, seconded by Lee.

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

DECEMBER 3, 2007, REGULAR CITY COUNCIL MEETING

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Vice Mayor Pruette asked to place the following issues on the January Workshop Agenda.

1. The Wal-Mart development (concerns regarding the beginning of

construction)

2. Town Center Overlay District (concerns regarding the Town Center banners)

Each Council member disclosed they had previously spoken with Mr. Jonathan Plumb regarding the relocation of City Hall to the Gateway Center. Councilor Lee further disclosed he had spoken with representatives regarding the Penman Plaza development. Councilor Weldon, Councilor Pardee and Vice Mayor Pruette also disclosed they had previously spoken with representatives or Penman Plaza.

City Clerk Lisa Volpe requested changing the dates of the January and February workshop meetings to January 28th and February 25th due to upcoming holidays.

Consensus: **TO HOLD THE JANUARY WORKSHOP MEETING ON THE 28TH AND THE FEBRUARY WORKSHOP MEETING ON THE 25TH.**

NEW BUSINESS

FDOT Easement **DEPARTMENT OF TRANSPORTATION EASEMENT:** City Manager Jarboe stated this was a request for an easement from the Florida Department of Transportation that would allow them enough space to install modern traffic signalization.

Moved by Pruette, seconded by Lee.

Motion: **TO APPROVE THE EASEMENT FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Surplus **SURPLUS OF PUBLIC SAFETY VEHICLE:** Request to surplus an unused vehicle, 2003 Chevy Impala, VIN 2G1WF55K739208170 from the Public Safety Department.

Moved by Weldon, seconded by Pruette.

Motion: **TO SURPLUS THE PUBLIC SAFETY VEHICLE.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS

FDOT **PRESENTATION BY THE FLORIDA DEPARTMENT OF TRANSPORTATION ON PEDESTRIAN SAFETY:** Mr. James G. Bennett, P.E., Florida Department of Transportation, Urban Area Transportation Development Engineer District Planning Manager, gave a slide show presentation on upcoming projects for the beaches. The presentation focused on the resurfacing of A1A, replacement of traffic signals, and pedestrian safety. He stated extra improvements were not within DOT's budget but the city could make additional improvements if they choose to.

Utility Rate Study **FY 2008 UTILITY RATE STUDY PRESENTATION BY BURTON AND ASSOCIATES:** Michael Burton, President of Burton and Associates, Andrew Burnham, Vice President, and Kevin Krueger, Associate Consultant, gave a presentation on the water and sewer rate study. Mr. Burton explained the purpose of the study was to

evaluate the financial status of the water and sewer enterprise fund and to ensure there was sufficient revenue to cover operating and capital cost and to ensure all regulatory requirements were met, including the unfunded mandate concerning nitrogen removal. The study determined the water and sewer rates needed to be adjusted as outlined in Ordinance No. 2008-01. Mr. Burton also mentioned that the council may want to consider adding an inclining block rate for conservation reasons.

ORDINANCES

Ord. No. 2008-01

ORDINANCE NO. 2008-01, WATER AND SEWER RATE INCREASE, FIRST READ AND PUBLIC HEARING: AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA CHAPTER 23 UTILITIES ARTICLE IV WATER AND SEWER SERVICE CHARGE SECTION 23-84(B), (C), AND (D) TO INCREASE WATER RATES AND AMENDING SECTION 23-85(A) (B) AND (C) TO INCREASE SEWER RATES; AND ESTABLISHING AN EFFECTIVE DATE.

Mayor Brown read Ordinance No. 2008-01 by title only and opened the public hearing.

Paul Nicholson, 222 Oleander Street, encouraged a reuse water system and preservation of the environment by conserving water.

Bob Harris, 811 First Street, voiced concerned regarding the level of the rate increase.

Michael Aston, 1523 Summer Sands Drive, spoke on behalf of his neighbor Hayes Bishop, who was concerned about raising rates and the polluting of the St. Johns River.

Moved by Weldon, seconded by Pruette.

Motion: **TO PASS ORDINANCE NO. 2008-01 ON FIRST READ AND PUBLIC HEARING.**

Councilor Pardee stated he could not support the Ordinance because he felt the rate increase was excessive. He felt commercial areas should carry more of the burden.

Vice Mayor Pruette stated she was not happy to support the rate increase but she felt it was necessary in order to continue improvements on water and sewer lines and to comply with unfunded state mandate on nitrogen removal.

Roll Call Vote:

Ayes: 4 – Lee, Pruette, Weldon, Brown

Noes: 1 – Pardee

MOTION CARRIED

COMMENTS FROM THE PUBLIC

Patrice Spencer, 1040 Penman Road, Pastor of Christ United Methodist Church, stated the congregation opposed the variance requested by Penman Plaza to wave the required six foot masonry wall between commercial and residential properties.

Lynda Padrta, 1113 First Street, felt the presentation on the Water & Sewer Rate Study given by Burton and Associates was very professional. She was also opposed to the variances requested by Penman Plaza.

Kerry Chin, 227A Margaret Street, stated he was not opposed to the Penman Plaza development however he felt the amount of variances they have requested are unreasonable.

Tim Kazmierczak, 2102 Acacia Road, suggested extending the sidewalk at the Kings Road and Florida Boulevard intersection across Florida Boulevard to the bicycle path.

Michael Aston, 1523 Summer Sands Drive, stated he was not opposed to the Penman Plaza development but he was concerned about the number of variance requests.

Paul Nicholson, 222 Oleander Street, felt it would be nice if developers would meet and sometimes offer to go above and beyond city requirements instead of always requesting that the city relax the Code for their development.

CITY MANAGER REPORT

Gateway Center

REQUEST BY JONATHAN PLUMB TO RELOCATE CITY HALL AND POLICE STATION TO GATEWAY CENTER: City Manager Jarboe stated for the record that the City did not solicit Jonathan Plumb. Mr. Plumb sent a letter of proposal to relocate City Hall to the Gateway Center addressed to Mayor Brown.

Mr. Jonathan Plumb explained why he felt the Gateway Center would be ideally suited for the relocation of City Hall, the Public Safety Building and the Senior Activities Center. It would not only be a good financially but also revitalize the Prado Ferrer area and add more space for retail in Town Center.

Councilor Weldon stated he was interested in exploring the idea carefully and having staff conduct a complete analysis to see if it was worth pursuing.

Vice Mayor Pruette felt the City Hall and Public Safety buildings were located where they needed to be. They were both paid for and Council needed to hear from the citizens before selling the property.

Mayor Brown recommended that staff conduct a preliminary cost report for Council to consider.

Councilor Lee was also in favor of staff conducting a preliminary report for the Council.

Councilor Pardee stated he would be interested in hearing what the numbers would be but he was leaning more toward keeping the Gateway Center property on the tax rolls.

Mr. Jarboe asked if council wanted to spend funds for an appraisal. Council did not support spending any funds

Consensus: **TO REVIEW THE OFFER AND CREATE A BASIS FOR WHICH THE COUNCIL COULD MAKE A REASONABLE DECISION ON WHETHER THE OFFER WAS WORTH PURSUING WITHOUT SPENDING ANY MONEY.**

CONSENT AGENDA / NONE

Recess/Reconvene

Mayor Brown called a recess at 8:40 p.m. and reconvened the meeting at 8:50 p.m.

VARIANCES

PDRB07-14
Penman Plaza

PDRB07-14, PENMAN PLAZA ASSOCIATES PLAT: Approval of plat for Penman Plaza Shopping Center.

Moved by Pruette, seconded by Weldon.

Motion: **TO APPROVE THE PLAT FOR PENMAN PLAZA ASSOCIATES.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

V07-18
Penman Plaza

V07-18, VARIANCE REQUESTS FOR PENMAN PLAZA ASSOCIATES: Carlos Asensio, Formal Construction Management, representative for Penman Plaza Associates, described the property and updated Council on the history of the property since it was purchased by Flagler Properties in 1990.

The Planning & Development Review Board recommended approval of variance # 6 to reduce the buffer between commercial and single family by 10 feet leaving 0 feet in lieu of the required 10 feet and variance # 9 to reduce the minimum parking space size to 9' x 18' in lieu of the required 10' x 20'.

Councilor Weldon questioned Community Development Director Amanda Askew about the buffer behind the Aarrons Rental property. Ms. Askew replied there could potentially be a 10 foot buffer behind the Aarons Rental property.

SECTION 27-229-1: A variance to increase the maximum lot coverage by 7.1% creating 82.1% of lot coverage in lieu of the 75% maximum lot coverage.

SECTION 27-445(B): A variance to reduce the gross landscape area by 5% creating 15% of landscape area in lieu of the required 20%.

SECTION 27-457 (2) (a) (1): A variance to reduce the perimeter landscape area by 6 feet leaving 3 feet in lieu of the required 9 feet.

SECTION 27-459(3) (a) (1): A variance to omit the shade trees in 9 foot landscape buffer.

SECTION 27-457(2) (b) (2): A variance to wave the requirement of one landscape island per 10 parking spaces for all existing parking areas and one instance in new development area.

SECTION 27-459 (3)(b)(1): A variance to reduce the buffer between commercial and single family by 10 feet leaving 0 feet in lieu of the required 10 feet (existing non-conforming condition behind Winn-Dixie)

SECTION 27-459 (b)(3): A variance to wave the required six foot masonry wall between commercial and single family.

SECTION 27-540 (c): A variance to increase the maximum number of parking spaces to 50 spaces over the minimum requirement of 30 spaces.

SECTION 27-548(b)(1): A variance to reduce the minimum parking space size to 9' x 18' in lieu of the required 10' x 20'.

Vice Mayor Pruette asked Community Development Director Amanda Askew her opinion on the variances.

Community Development Director Amanda Askew stated there were other opportunities; simple changes could be made to the proposal that would not require the need for variances.

Councilor Weldon asked City Attorney White to give the Council an opinion on the definition of a hardship and what was required to approve a variance for a commercial development application.

City Attorney White responded the hardship had to be unique to the property owner, and not created by the developer and would require competent substantial evidence of such hardship.

Moved by Weldon, seconded by Pruette.

Motion: **TO APPROVE THE RECOMMENDATIONS OF THE PLANNING & DEVELOPMENT REVIEW BOARD REGARDING THE NINE VARIANCES WHICH APPROVED TWO OF THEM, NUMBER SIX AND NUMBER 9 AND TO ACCEPT THE DETAILED THE MINUTES OF THE PLANNING & DEVELOPMENT REVIEW BOARD AS COMPETENT SUBSTANTIAL EVIDENCE THAT THE OTHER VARIANCE REQUESTS DO NOT MEET THE DEFINITION OF A HARDSHIP.**

Councilor Pardee felt the variance requests were reasonable and the Council could grant exceptions. He felt confident that the people, who lived, shopped, and paid taxes in the community would rather have the shopping center the way the developer has designed it than empty.

Mayor Brown asked City Attorney White if the shopping center was in any way grandfathered. He was under the opinion that the new Code was only being applied to new development.

City Attorney White replied because this was a new development of an existing property it was not completely exempted from complying with the development code.

Councilor Weldon stated the structure needed to be redesigned to meet the new Code and comply with the same sets of requirements that were required by other development orders.

Councilor Pruette stated she would support the Planning & Development Review Board's recommendation to approve two of the variances.

Vice Mayor Pruette asked City Attorney White if Council could send the variances back to the Planning & Development Review Board. City Attorney White replied the only way it could go back to the Planning & Development Review Board was if the applicant was introducing new information that was not previously heard by the board. He added the Council must now either approve or reject the recommendation of the board or approve the recommendation with conditions.

Roll Call Vote:

Ayes: 2 – Pruette, Weldon

Noes: 3 – Lee, Pardee, Brown

MOTION FAILED

Moved by Pardee.

Motion: **TO APPROVE THE RECOMMENDATION OF THE PLANNING & DEVELOPMENT REVIEW BOARD AND DENY THE**

RECOMMENDATION ON THE OTHER SEVEN VARIANCES OR IN OTHER WORDS APPROVE ALL NINE VARIANCE REQUESTS.

MOTION FAILED FOR LACK OF SECOND.

Moved by Lee, seconded by Weldon.

Motion: **TO FORWARD TO JANAURY WORKSHOP.**

City Attorney White read the following portion of the Code aloud: Procedures for Applying for Commercial Variance. At the next available meeting City Council shall approve, deny, or approve with conditions the application.

City Manager Jarboe suggested Council approve the recommendation of the Planning & Development Review Board with the condition that the proposal be sent back to the Planning & Development Review Board, waive the application fee, and have staff work with the developer on a new plan.

Moved by Pruette, seconded by Weldon.

Motion: **TO APPROVE THE PLANNING & DEVELOPMENT REVIEW BOARDS RECOMMENDATION WITH THE CONDITION THAT THE DEVELOPER WOULD GO BACK TO THE PLANNING & DEVELOPMENT REVIEW BOARD WITHOUT PAYING AN ADDITIONAL FEE AND HAVE STAFF WORK WITH THE DEVELOPER ON A NEW NEGOTIATED PLAN TO RESOLVE SOME OF THE CONCERNS OF THE COUNCIL.**

Roll Call Vote:

Ayes: 3 – Pruette, Weldon, Brown

Noes: 2 – Lee, Pardee

MOTION CARRIED

OLD BUSINESS / NONE

Adjournment

There being no further business, the meeting adjourned at 10:25 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____