



MINUTES
REGULAR CITY COUNCIL MEETING
APRIL 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 April 7, 2008 at 6:00 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 Attorney Christopher White
 City Manager Jim Jarboe
 City Clerk Lisa Volpe, CMC

STAFF:

Community Development Director Amanda Askew
 Senior Activities Center Director Leslie Lyne
 Director of Finance Steve Ramsey
 Director of Public Safety David 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 Sybil Ansbacher in recognition of her service on the Board of Appeals.

APPROVAL OF MINUTES

Moved by Pruette, seconded by Weldon.

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

MARCH 3, 2008, REGULAR CITY COUNCIL MEETING
MARCH 17, 2008, SPECIAL CITY COUNCIL MEETING
MARCH 17, 2008, WORKSHOP CITY COUNCIL MEETING

Roll Call Vote:

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

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Mayor Brown welcomed Councilor Lee back from his trip to China.

Vice Mayor Pruette disclosed she had spoken with representatives for the Penman Plaza development order.

Vice Mayor Pruette stated she heard complaints from residents regarding the driveway on the Bay Street beach access.

Councilor Weldon explained the Bay Street development order had specific language which required the driveway appear to be a non-private driveway. City Manager Jarboe explained he had spoken with the developer regarding the situation and was waiting for his reply.

Councilor Lee and Councilor Pardee also disclosed they had spoken with representatives for the Penman Plaza development order.

CITY MANAGER REPORT

There was a discrepancy in Saturday's edition of the Florida Times Union Shorelines regarding the beaches population.

The repairs to the manholes on First Street were 95% complete.

The city was able to piggyback off of other contracts for repairs to a South Street manhole and a Third Street manhole.

Although revenues are down permit activity has improved this week in the Building Department.

Seventeen applicants have been interviewed for lifeguard positions. Chief Sembach is in the process of filling the positions.

COMMENTS FROM THE PUBLIC

Gretchen Ferrell, 1166 Third Avenue North, Jacksonville Beach, submitted a map for the proposed Community Garden.

CONSENT AGENDA

SURF CAMP

911 INTERLOCAL AGREEMENT

PEDESTRIAN SAFETY CORRIDOR PLAN

PURCHASE OF PLAYGROUND EQUIPMENT

POLICE DEPARTMENT RECORDS MANAGEMENT SYSTEM SOFTWARE GRANT

EXPENDITURE OF FORFEITURE FUNDS

Moved by Pruette, seconded by Lee.

Motion: **TO APPROVE THE CONSENT AGENDA**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

VARIANCES

V08-03
Penman Plaza

VARIANCE REQUEST V08-03 – PENMAN PLAZA ASSOCIATES, 1209, 1223, 1301 ATLANTIC BOULEVARD:

- Variance Request # 1 Section 27-229-1, a variance request to increase the maximum lot coverage by 5.9%, creating 80.9% in lieu of the 75% maximum lot coverage.
- Variance Request # 2 Section 27-455(b), a variance request to reduce the gross landscape area by 3.6%, creating 16.4% in lieu of the required 20%.
- Variance Request # 3 Section 27-457(2)(a)(1), a variance request to reduce the perimeter landscape area by 3 feet leaving 6 feet in lieu of the required 9 feet.
- Variance Request # 4 Section 27-459(3)(a)(1), a variance request to omit the shade trees in 9 foot landscape buffer.
- Variance Request # 5 Section 27-457(2)(b)(2), a variance request to waive the requirement of one landscape island per 10 parking spaces for all existing parking areas.
- Variance Request # 6 Section 27-459(b)(3), a variance request to waive the required six foot masonry wall between commercial and single-family.
- Variance Request # 7 Section 27-540(C), a variance request to increase the maximum number of parking spaces to 52 spaces over minimum requirement in lieu of the thirty spaces over minimum requirement.

Moved by Pruette, seconded by Lee.

Motion: **TO APPROVE VARIANCES NUMBER 1 THROUGH 4, 6 AND 7.**

Mayor Brown stated the development order involved removing the old Neptune Theater and constructing an attractive shopping center. He explained the reason the variance requests were required was because the building and landscaping were nonconforming.

Councilor Weldon asked the representative for the developer to come forward and address the Council.

Mr. Timothy McClain, representative for Penman Plaza, addressed the Council and explained since the previous council meeting they had met with city staff regarding plans and landscaping. They also hired a landscaping architect to address landscaping requirements. They also met with representatives for Christ United Church and Winn Dixie regarding the new development.

For the Record Councilor Weldon stated for the record since the previous council meeting he had not spoken with representatives for Penman Plaza. He disagreed with the variance requests for maximum lot coverage and landscaping. He was concerned about water runoff and nitrogen extraction. He was also concerned the variance requests would be utilized to construct out parcels. He asked if the owners would agree to bring the shopping center into compliance with impervious surface and landscaping requirements if they were to construct out parcels in the future. Mr. McClain agreed for the record they would bring the impervious surface and landscaping requirements into compliance if out parcels were built in the future.

Council Weldon stated he was also concerned about the signage not being addressed in the

development order. He explained within six years all existing pole signs within the city would be required to be removed. Mr. McClain stated he was aware of the sign ordinance and had already removed the Neptune Beach Theater pole sign. He added that he was under lease agreement with existing tenants regarding signage.

City Attorney White asked when the lease with Winn Dixie would expire. Mr. McClain replied the current lease agreement with Winn Dixie Stores expired in 2015. City Attorney White asked if there was a clause in the lease agreement relating to governmental regulations. Mr. McClain replied there was such a clause within the agreement.

Councilor Pardee felt signage was not an issue concerning the motion that was currently on the floor. He asked for discussion to move forward.

Councilor Weldon asked Mr. McClain if he acknowledged the variances would not be transferable and if he made any changes to the plans they would have to start the development process over. Mr. McClain acknowledged if they changed the plans they would have to return to Council for approval. He added they did not intend to have any major changes to the plans and they were trying their best to stay in compliance.

For the Record Councilor Weldon asked Mr. McClain for the record if they were to build a smaller center if they would attempt to improve the variance percentages. Mr. McClain responded for the record "yes"

Mr. William McClain, representative for Penman Plaza, stated if Councilor Weldon was suggesting they bring the center into total compliance if they had to make minor changes to the footprint to accommodate a tenant that did not include changing the façade or the square footage then the answer to the question would be "no". Councilor Weldon stated that was not the intention.

Councilor Weldon stated if they were to decide to build a smaller building if they would agree to bring the overall numbers into compliance. Mr. William McClain stated if they made any changes to the plans they understood they would have to return to the Council for approval therefore, he was not sure he wanted to make that commitment.

Mayor Brown stated that it was correct that the Council would have to approve any changes that were made to the development order.

Mr. William McClain stated they would like to have the ability to change the shapes of some of the buildings in order to accommodate new tenants. City Manager Jarboe explained if the size was substantially changed the building plans would not match the development order and the building official would not be able to move forward without approval from Council and therefore the applicant would need to go back through the development process. Mr. William McClain explained they understood they would need to go back through the development process if that were the case.

Councilor Weldon stated he wanted everyone to agree that the impervious surface and landscaping requirements would be revisited if major reductions in square footage were made.

Janet Whitmill, Landscape Architect for the developer, explained when the building was built in 1964 it met all requirements. Most of the non-compliance issues dealing with the development order were incompatible land use square footages that could not be met with the ability to move the trucks in the rear of the structure. The site plan shows the Winn Dixie, Aarons, and the Neptune Theater did not have sufficient green space. She explained the proposed site plan reduced parking spaces at the Tire Kingdom site and along Atlantic Boulevard. The new parking spaces that were being introduced would be pervious pavement.

Councilor Lee wanted to clarify if the size of the building substantially changed in square footage they would have to go back through the development order process. However, changes in the shape in order to attract proposed tenants did not substantially change or

reduce the size of the structure and would not require a new development order.

Vice Mayor Pruette questioned when they would be demolishing the old theater. Mr. McClain replied as soon as they received Council approval and met with the contractor.

City Manager Jarboe stated the only reason Code Enforcement action has not been taken was because there was a pending development order and it would be their best interest to demolish the building as soon as possible.

Councilor Pardee felt the Council was setting a precedent for future development by asking them to bring the non-compliances into compliance if they were to add out parcels. He asked the applicants if they were willing to comply with variance request number five. Mr. McClain stated they were confused about how variance request number five was omitted. Councilor Pardee asked to call the question.

Mayor Brown stated the question had been called if no one had any objections.

Councilor Weldon stated he objected to calling the question.

Mayor Brown stated "calling the question" was a parliamentary procedure and could not be debated. He asked City Clerk Lisa Volpe to record the vote for "calling the question".

Roll Call Vote:

Ayes: 3 – Pardee, Pruette, Brown

Noes: 2 – Lee, Weldon

MOTION CARRIED TO CALL THE QUESTION ON THE ABOVE MOTION

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Moved by Pruette, seconded by Pardee.

Motion: **TO APPROVE VARIANCE REQUEST NUMBER 5.**

Community Development Director Amanda Askew explained the Planning & Development Review Board recommended denial of variance number five because a few of the board members indicated the existing parking spaces could easily be converted into required landscape islands.

Mayor Brown felt some of the existing shopping center grandfathered benefits were being lost because of the expansion.

Councilor Pardee asked Mrs. Askew what percentage of the expansion made the entire site have to be brought up to today Code. Mrs. Askew replied any time gross square footage was added to an existing non-conforming site the entire site had to be brought up to Code.

For the Record Councilor Lee stated for the record the only place that could be changed at this point was to add islands in two sections. That would require removing the existing parking lot and putting an island next to Bono's Bar-B-Que.

For the Record Councilor Pardee stated for the record he was adamantly opposed to the Code being applied in this manner.

Mayor Brown agreed the Code was very unfriendly to businesses and required unnecessary

expenditures.

Vice Mayor Pruette stated she would like to see the shopping center developed as soon as possible. She felt the improvements would compliment the community.

Councilor Lee also felt the development would compliment the community and asked Mr. McClain how soon they could begin construction. Mr. McClain replied they would like to begin as soon as possible.

Roll Call Vote:

Ayes: 4 – Lee, Pardee, Pruette, Brown

Noes: 1 – Weldon

MOTION CARRIED

Development Order
Penman Plaza

APPROVAL OF THE DEVELOPMENT ORDER FOR PENMAN PLAZA ASSOCIATES, 1209, 1223, AND 1301 ATLANTIC BOULEVARD

Moved by Pruette, seconded by Lee.

Motion: **TO APPROVE THE DEVELOPMENT ORDER FOR PENMAN PLAZA AS RECOMMENDED BY THE PLANNING & DEVELOPMENT REVIEW PLAN AND RETURN TO THE COUNCIL REGARDING THE SIGNAGE.**

Councilor Weldon asked Mr. McClain if they intended to comply with the sign ordinance within the next five to six years. Mr. McClain felt he could not legally answer that question due to tenant lease agreements.

Councilor Weldon was concerned about the pine trees on the landscape plan and asked if they would replace them with palm trees. Ms. Whitmill replied she had no objection to changing the pine trees to palm trees.

Councilor Weldon questioned how the Church felt about not having a concrete barrier wall. He added that it was not up to the church to decide whether or not the barrier wall was required because the property could be sold and redeveloped in the future. Mr. McClain stated the Church was satisfied with having a chain link fence with privacy slats in lieu of a concrete barrier wall as long as the privacy slats were maintained.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

ORDINANCES

Ord. No. 2008-05

ORDINANCE NO. 2008-05, AMENDING CHAPTER 27, SECTION 27-227, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS SECTION 27-227 SPECIAL RESTRICTIONS AND CONDITIONS ON ALLOWABLE USES WITHIN ZONING DISTRICTS(B)(5) RETAIL, GENERAL AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown explained this ordinance would allow business to conduct eight outdoor sales per year in lieu of the three.

Vice Mayor Pruette felt businesses should have more flexibility with outdoor sales.

Councilor Weldon questioned if the ordinance had been recommended for approval by the

Planning & Development Review Board. Mayor Brown stated the ordinance would go to the Planning & Development Review Board for recommendation in May.

Councilor Pardee questioned why the ordinance was placed on the agenda. City Manager Jarboe responded originally businesses were not allowed to have outdoor sales. The ordinance allowing three garage sales was amended to also allow business to have three outdoor sales per year. This ordinance would amend the Code to allow businesses to have eight outdoor sales but did not change the limited amount of garage sales per year.

Councilor Pardee felt the ordinance was not necessary.

Vice Mayor Pruette suggested striking out the number of times per year and adding "general retail stores may be held on the premises of a licensed store".

Councilor Weldon felt the ordinance should not be debated at a regular council meeting because it had not been discussed at a previous workshop meeting nor had it been before the Planning & Development Review Board for a recommendation to the Council.

City Clerk Volpe stated the ordinance adoption process was for an ordinance to first be heard and discussed at a workshop meeting and forwarded to the next regular council meeting for first read. After first read the proposed ordinance would go to the next Planning & Development Review for a recommendation to Council. After recommendation by the Planning & Development Review Board the proposed ordinance would return to the next regular council meeting for second read and final adoption. She suggested, if the order was a problem, she would place the issue on the April workshop agenda for discussion. City Manager Jarboe suggested drafting a resolution for procedures on adopting ordinances for the April workshop meeting.

Consensus: **TO DRAFT A RESOLUTION FOR PROCEDURES FOR ADOPTING ORDINANCES AND FORWARD TO THE APRIL WORKSHOP MEETING.**

OLD BUSINESS

Community Garden **COMMUNITY GARDEN:** City Manager Jarboe recommended the proposed community garden be located across from the water plant on Fifth Street. If Council agreed to the Fifth Street location he would work out the details which would include an "adopt an area agreement".

Councilor Pardee met with Mary Puckett, who supervises five to six community gardens in Duval County, acting as a liaison between the gardeners and the City of Jacksonville. Councilor Pardee suggested the city also contract with her to supervise our community garden. However, he was concerned about the Fifth Street location because of the limited parking spaces for park visitors.

Councilor Weldon asked Gretchen Ferrell to approach the podium and address the Council.

Gretchen Ferrell stated she had met with City Manager Jarboe and explained the details pertinent to the "adopt an area" program. She and other interested persons spoke with the adjacent residents regarding the Fifth Street location and they did not have any objections to the garden. Also the proposed garden area would allow 24 garden plots and would only take up 200 feet of the current 400 feet used for parking.

City Manager Jarboe stated the residents adjacent to the Fifth Street location would need to sign an agreement.

Moved by Pruette, seconded by Lee.

Motion: **TO APPROVE THE COMMUNITY GARDEN CONCEPT WITH THE CITY MANAGER WORKING OUT AN ADOPT AN AREA AGREEMENT AND DETAILS.**

Councilor Weldon questioned what would happen if one of the neighbors objected to the location. City Manager Jarboe stated if one neighbor objected he would bring the issue back to the Council for consideration.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Town Center
Art Project

RESOLUTION FOR TOWN CENTER ROUNDABOUT ART PROJECT: Mayor Brown asked Council if they were comfortable with the substitute resolution he drafted. He felt the resolution clearly stated the city's position and would allow the Town Center Agency to move forward with the artwork selection process.

Moved by Weldon, and Pruette.

Motion: **TO APPROVE THE SUBSTITUTE RESOLUTION DRAFTED BY MAYOR BROWN REGARDING ART IN THE ROUND ABOUT.**

Councilor Pardee stated he supported the idea of allowing Town Center to go through the process of request for proposals to obtain the artwork. But he did not necessarily support placing art in the Town Center round about.

Councilor Weldon asked Michael Dunlap to approach the podium and address the Council.

Michael Dunlap stated the request for proposals for the artwork had been rewritten to include the concerns and the items discussed at the previous council meeting. He added their request was approved by the City of Atlantic Beach.

Councilor Lee was concerned because the resolution did not address the maintenance of the art structure. He stated he would not approve a high maintenance art structure. Councilor Lee also voiced concern about a vehicle running into the art structure.

For the Record Vice Mayor Pruette stated for the record that she advised the Town Center Agency to purchase an insurance policy.

Roll Call Vote:

Ayes: 4 – Lee, Pruette, Weldon, Brown

Noes: 1 – Pardee

MOTION CARRIED

Green Market

Vice Mayor Pruette advised the Green Market in Jacksonville Beach was interested in moving to Jarboe Park.

New Development

Councilor Pardee asked staff to review the Code regarding landscaping and non-pervious surface non-conformities for new developments.

NEW BUSINESS / NONE

Adjournment

There being no further business, the meeting adjourned at 8:00 p.m.

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____