



MINUTES
REGULAR CITY COUNCIL MEETING
OCTOBER 6, 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 October 6, 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
 Deputy City Clerk Karla Strait, CMC

Community Development Director Amanda Askew
 Senior Activities Center Director Leslie Lyne
 Director of Public Safety David Sembach
 Director of Public Service Leon Smith

Order Call/Pledge

Mayor Brown called the meeting to order at 6:00 p.m. and asked Boy Scout Troop # 276 to lead the pledge of allegiance.

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS

Mayor Brown recognized the presence of Boy Scout Troop # 276 in the audience.

Mayor Brown announced the Fletcher High School Band presented the city with a plaque in appreciation for supporting their trip to Washington, D.C. which contributed to allowing them to participate in the July 4, 2008, National Independence Day Parade.

APPROVAL OF MINUTES

Moved by Pruette, seconded by Pardee.

Minutes

Motion:

TO APPROVE THE FOLLOWING MINUTES:

SEPTEMBER 8, 2008, REGULAR CITY COUNCIL MEETING
SEPTEMBER 22, 2008, SPECIAL CITY COUNCIL MEETING
SEPTEMBER 22, 2008, WORKSHOP CITY COUNCIL MEETING
SEPTEMBER 25, 2008, SPECIAL CITY COUNCIL MEETING

Roll Call Vote:

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

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Deputy City Clerk Karla Strait announced that City Clerk Lisa Volpe was doing well and should be able to return to work in approximately two weeks.

CITY MANAGER REPORT

City Manager Jarboe reported on the following:

- FEMA is in the process of conducting an on site audit.
- The City audit is also in process.
- The Election is in process and all political signs were properly placed.

Mayor Brown questioned the article in the Shorelines regarding the contamination of Hopkins Creek. City Manager Jarboe replied it would difficult to locate the source of the contamination without conducting a study.

COMMENTS FROM THE PUBLIC / NONE

CONSENT AGENDA

Crafternoon

CRAFTERNOON: Approval to use Jarboe Park Saturday, November 8, 2008.

Moved by Pruette, seconded by Lee.

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

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

VARIANCES

V08-15, PDRB 08-06 & PDRB 08-08
240 Third St.

V0-15, VARIANCE REQUEST FOR PARKING, PDRB 08-06, SPECIAL EXCEPTION FOR OUTDOOR DINING & PDRB 08-08, DEVELOPMENT ORDER FOR ROBERTA ROBSON, 240 THIRD STREET. (FORMER TACO BELL PROPERTY) City Manager Jarboe explained the Planning and Development Review Board recommended approval of Yucatan Mexican restaurant at the location of the former Taco Bell.

Roberta Robson, owner of the property located at 240 Third Street, stated she had tenants for the property who were interested in remodeling the old Taco Bell into a Mexican restaurant. She explained in order for to obtain a liquor license to serve margaritas they had to have seating for 150 patrons. The special exception was for outdoor dining and the variance request was to reduce the parking requirement by five spaces. She added that public parking was available in the right-of-way along Third Street.

Councilor Weldon voiced concern regarding the variance for parking. He stated there was already a 50% reduction allowance for required parking in the Central Business District. He questioned the practicality of the design and was concerned it would turn into a stand alone bar in the future. He also voiced concern about the size of the building and the alignment of the building with other buildings along Third Street. He felt the restaurant was too large for the site. He disclosed he is the owner of the office complex south of the property and is concerned his parking lot will be utilized by the restaurant patrons.

Mayor Brown felt the Mexican restaurant was a practical reuse of the property and the seasonal outdoor dining was popular. He did not have any concerns.

Councilor Pardee stated the Planning & Development Review Board recommended approval of the project and he supported the development order.

Councilor Lee was concerned about the outdoor dining deck being located only three feet from Third Street.

Councilor Weldon felt adding the large outdoor dining deck would change the appearance of Third Street. He was concerned that it would become a big party site that would have no parking. He was also concerned that it would become a long term eyesore if the restaurant was not successful.

Councilor Lee stated he would like the tenant to address the Council in order to get a better understanding of the design. He asked Community Development Director Askew if the deck would be built of pervious material. Mrs. Askew responded it would be a wood deck, thus it would not be counted as impervious surface.

Vice Mayor Pruette suggested asking the tenants to attend the October workshop meeting and explain the design in further detail. She also asked Mayor Brown to hold a special meeting after the October workshop meeting to vote on the project.

Mayor Brown asked Kerry Chin, Chairman of the Planning & Development Review Board, to address the Council.

Kerry Chin, Chairman of the Planning & Development Review Board, stated it was a consensus of the planning board this would be a nice project for a vacant lot. The board viewed the 150 seat requirement as "only a number on paper" in order for the tenant to obtain a liquor license. They also felt the restaurant would not be filled to capacity at any given time, therefore allowing the reduction in the required parking spaces. He added at one time there was a verbal agreement for parking between the Village Inn and the owner of the former Taco Bell. The Board also expressed Council's concern regarding outdoor amplified music to Ms. Robson.

Councilor Pardee asked Mr. Chin if the tenants were present at the Planning & Development Review Board meeting. Mr. Chin responded the owner was present but not the tenants.

For the Record

Vice Mayor Pruette stated for the record she supported the project. However, she was concerned about outdoor amplified music.

Councilor Pardee stated the City and Code Enforcement Officer have been pressuring the owner to clean up the property and he felt the development order should be approved.

Moved by Weldon

Motion: **TO TAKE IT BACK TO WORKSHOP AND GET MORE DETAIL FROM THE PEOPLE THAT ARE ACTUALLY GOING TO OPERATE THE RESTAURANT.**

MOTION FAILED FOR LACK OF SECOND.

Vice Mayor Pruette stated she would also like to discuss the details in a workshop meeting.

Councilor Lee stated he did not want to delay the project. However; he would like to hear more details from the tenants. He asked Community Development Director Askew if the building met the Code.

Community Development Director Askew replied the proposal met the front and side yard setbacks and met the Code requirements for impervious surface.

Councilor Lee asked if the Council could place restrictions on the outdoor dining. Mrs. Askew

replied because it was a special exception restrictions could be placed on the outdoor dining.

Councilor Lee asked if Council could limit the outdoor dining to certain hours. Mrs. Askew replied that was correct.

Councilor Lee questioned if the restrictions would be transferred if the property was sold or leased to another tenant. Mrs. Askew replied the restrictions would be conveyed with the property to the new owner.

Councilor Lee asked Mrs. Askew if a new owner or tenant would be allowed to turn the property into a stand alone bar. Mrs. Askew replied a stand alone bar would not be allowed on the property because it was within 800 feet of a church.

Councilor Weldon stated as a restaurant serving alcohol, 51% of the sales would need to be from food. Mrs. Askew replied the state audited that requirement.

Mayor Brown asked Council if they were ready to vote or if they wanted to forward the development order to the October workshop.

Councilor Lee stated he would not be comfortable moving forward without putting restrictions on noise and alcohol. He would like for the tenant to attend the October workshop.

Vice Mayor Pruette also wanted to hear from the tenant at a workshop.

Councilor Lee asked Ms. Robson if the tenants would be willing to attend a workshop meeting to address the Council. Ms. Robson replied she was concerned because her prospective tenants have been waiting for approval from the city for months and she is afraid they may find another opportunity.

Vice Mayor Pruette suggested holding a special meeting after the October workshop to approve the development order if a consensus could be reached.

Mayor Brown stated he could call a special meeting after the October workshop if Council was satisfied.

Moved by Weldon, seconded by Lee.

Motion: **FORWARD TO THE OCTOBER WORKSHOP FOR FURTHER STUDY.**

Roll Call Vote:

Ayes: 3 – Lee, Pruette, Weldon

Noes: 2 – Pardee, Brown

MOTION CARRIED

Councilor Lee asked if there would be a special meeting held after the October workshop meeting to vote on the development order. Mayor Brown replied he would call a special meeting if enough information was gathered for the majority of the Council to make a decision.

ORDINANCES

Ord. No. 2008-13

ORDINANCE NO. 2008-13, SEASONAL SALES, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 17, SALES, ARTICLE III OPEN AIR SALES AND MARKETS, ADDING SECTION 17-47 SEASONAL SALES AND PROVIDING AN EFFECTIVE DATE.

Moved by Weldon, seconded by Pruette.

Motion: **TO PASS ORDINANCE NO. 2008-13 ON FIRST READ.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2008-14

ORDINANCE NO. 2008-14, ALLOWING DOGS IN OUTSIDE DINING AREAS, FIRST READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27, UNIFIED LAND DEVELOPMENT REGULATIONS ADDING SECTION 27-339 ALLOWING DOGS IN OUTSIDE DINING AREAS UNDER CERTAIN CONDITIONS AND PROVIDING AN EFFECTIVE DATE.

City Manager Jarboe explained this ordinance would allow dogs to dine in outdoor seating areas at restaurants as long the restaurant owner complied with the State guidelines.

Councilor Weldon voiced concerns about dangerous dogs being allowed in the outdoor seating areas at Sun Dog Diner and Carribee Key because they were located on public property. City Attorney White explained the outdoor seating contracts contained clauses releasing the city of liability.

Mayor Brown read Ordinance No. 2008-14 by title only and opened the public hearing.

Allen Martin, 1113 First Street, favored the Ordinance.

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

Mayor Brown stated it would be a business decision made the restaurant owner as to whether or not to allow dangerous dogs to dine on their property.

Vice Mayor Pruette felt pets were part of the community and should be allowed to dine with their owners in outdoor areas. She added it would be the restaurant owner's decision as to whether or not they wanted to allow dogs in outside dining areas.

Councilor Lee was concerned the city had not yet defined "Dangerous Dogs". He was expecting the Dangerous Dog Committee to report to the Council before this ordinance was discussed.

Councilor Pardee stated the city banned dogs from the beach during certain hours because beach goers were intimidated by them. He felt restaurant patrons might also be intimidated. He added it would be the responsibility of the city to enforce the state guidelines and report incidences to the state. He was concerned how the ordinance would be enforced by the city. He also would like read the minutes from the Animal Ordinance Committee regarding their discussion of dog dining.

Mayor Brown stated he would like more input from the public and the restaurant owners. He added since there was no urgency to adopt the ordinance he would support moving it to the October workshop.

John Brocato, owner of Carribee Key, felt the ordinance should be consistent. He would rather not allow dogs to dine outdoors at all if he had to make the decision regarding which ones to allow and which ones not to allow.

Councilor Lee also wanted to hear more from the public, the restaurant owners, and the Animal Ordinance Committee at the October workshop meeting.

Councilor Weldon felt if the ordinance was adopted it would place too much pressure on restaurant owners to allow dogs to dine in outside areas.

Consensus: **FORWARD TO THE OCTOBER WORKSHOP TO GATHER MORE INFORMATION FROM THE PUBLIC, THE RESTAURANT OWNERS, AND THE ANIMAL ORDINANCE COMMITTEE.**

OLD BUSINESS / NONE

NEW BUSINESS

Res. No. 2008-17 **RESOLUTION NO. 2008-17, BOARD APPOINTMENTS:** A RESOLUTION APPOINTING MEMBERS TO THE POLICE OFFICERS RETIREMENT FUND BOARD.

City Manager Jarboe explained the Police Officer’s Retirement Fund Board was made up of two residents appointed by city council, two members appointed by the police officers, and a fifth member appointed by the Board.

Donald Padgett, 2102 First Street, Secretary for the Board, stated he had been on the board for approximately ten years. He is a Certified Public Accountant, and also spends time providing advice on stocks and bonds as well as taxes.

Councilor Weldon stated Mr. Padgett’s education and experience was exactly the type of member the Board needed. He would like to have more information as to where the fund stood in general. He was concerned because the city had a very large liability to the retirement fund in the event that the investments being made by the Board did not work out well. He also felt the Council should be more cognizant of the status of the Board’s investments.

Mr. Padgett explained the board hired outside firms to manage and monitor the investments.

Councilor Weldon stated in addition to hearing from the retirement fund managers at the October workshop meeting, he would also like staff to give an insight into any existing investments for bonds that the city currently maintained. He would also encourage staff to try to anticipate how the economic crisis is going to affect the city.

Moved by Weldon, seconded by Pruette.

Motion: **TO APPROVE RESOLUTION NO. 2008-17**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Adjournment There being no further business, the meeting adjourned at 7:20 p.m.

Richard A. Brown, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: _____