



**MINUTES
REGULAR CITY COUNCIL MEETING
JUNE 2, 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 June 2, 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
Senior Activities Center Director Leslie Lyne
Director of Finance Steve Ramsey
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 led the pledge of allegiance.

AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS / NONE

APPROVAL OF MINUTES

Moved by Pruette, seconded by Lee.

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

MAY 5, 2008, REGULAR CITY COUNCIL MEETING
MAY 19, 2008, WORKSHOP CITY COUNCIL MEETING
MAY 19, 2008, SPECIAL CITY COUNCIL MEETING

Roll Call Vote:

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

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Councilor Weldon disclosed he had spoken with many citizens regarding the community garden issue.

CITY MANAGER REPORT

- The manholes that were recently repaired were working well.
- Ten to twelve contractors had picked up bid plans for the Kings Road Bridge Project.
- Terry Klein, Administrative Assistant to the City Manager, was recovering from her illness and should be back June 30, 2008.

Councilor Weldon asked the Council to meet with him after the meeting if they would like to participate in sending a bouquet of flowers to Mrs. Klein.

City Clerk Lisa Volpe advised the Supervisor of Elections Office would be sending a formal letter addressed to the Council requesting that the city revise the qualifying dates in order to meet the deadline for sending out overseas absentee ballots.

COMMENTS FROM THE PUBLIC

Mayor Brown asked City Manager Jarboe to explain the issues regarding the community garden before beginning the public comments.

City Manager Jarboe explained part of the requirement to move forward with the community garden was to have consent from the adjacent neighbors. In the beginning the neighbors consented to the community garden. After receiving additional information they asked to withdraw their consent. Mr. Jarboe suggested an alternate location, for the community garden, behind the outfield of the baseball diamond in Jarboe Park. He asked Council to make a decision to leave the garden in the current location, without the consent of the neighbors, or relocate the garden to the suggested alternate site.

Lynda Padrta, 1113 First Street, supported the community garden at either location.

Sheri Nicholson, 222 Oleander Street, supported the community garden.

Wayne Willey, 569 Bay Street, supported the community garden at the new location.

Susie Chaires, 533 Magnolia Street, opposed the community garden being located behind her property.

Lang Chaires, 533 Magnolia Street, opposed the community garden being located directly behind his property.

Paul Nicholson, 222 Oleander Street, supported the community garden.

Laurie Clarke, 420 South Street, supported the community garden.

Jonathan Felts, 1166 Third Avenue North, Jacksonville Beach, supported the community garden.

Kelly Johnson, 519 Lora Street, supported the community garden.

Philip Ramsey, 1408 Walnut Street, supported the community garden in the original location.

Teri Methvin, 208 Driftwood Road, supported the community garden in the original location.

Gretchen Ferrell, 1166 Third Avenue North, Jacksonville Beach, supported the community garden in the original location. She felt the agreements currently in place with the city were binding and she had spoken with an attorney. She also felt starting the project over in a different location would compromise the garden.

Linda Gibson, 57 North Roscoe Boulevard, Ponte Vedra Beach, supported the community garden. She suggested having a mediator address the issue of the location.

LaJuan Kazmierzak, 2102 Acacia Road, supported the community garden in the original location.

Aimie Tous-Parker, 1537 Landing Lane, supported the community garden in the original approved location.

Barbara Jackson, 2001 Cherokee Drive, favored the community garden in the current location.

Janet Larson, 887 Marshside Court, Jacksonville Beach, supported the community garden in the current location.

Tom Larson, 887 Marshside Court, Jacksonville Beach, supported the community garden in the current location.

C. Rosille Van Nostraud, 1641 Landing Lane, supported the community garden in the current location.

Brad Burbaugh, University of Florida Institute of Food and Agriculture Sciences in Duval County, introduced Mary Puckett, the Program Assistant who oversees the five projects their office manages and gave the following information for the record: The Superior Street garden had fourteen plots, has been there for twenty-five years and was fifteen feet from the housing structures. The Murray Hill Garden at the intersection of Lawnview and Hamilton was directly in middle of the neighborhood within twenty feet of homes. The Fort Caroline Garden has seventeen plots within fifty feet of apartments. The Outtenbacks Gardens on East Twentieth and Buckman Street was only twenty-five feet from the houses. He further stated that heat would deter rodents and insects from composts piles.

Tim Kazmierzak, 2102 Acacia Road, supported the community garden. He was also concerned that the manholes in his neighborhood were not at the street level.

Comm. Garden

COMMUNITY GARDEN: City Manager Jarboe stated during the public comments the public brought up concerns and issues regarding the agreements. He asked City Attorney White to address those issues.

City Attorney White stated some comments that were made implied that the Conditional Use Agreement was permanent and could not be withdrawn, the easement use could not be changed, and the sixty day notice of cancellation did not apply unless there was construction. He stated he and the City Manager would meet with the spokesperson of the group to resolve these issues before moving forward in this process.

Councilor Lee questioned how many agreements were involved. City Attorney White replied there were a Right of Way Use Agreement, Land Agreement, and Community Garden Agreement.

Councilor Lee explained the Right of Way Use Agreement allowed the group permission to use the right of way for the community garden. This was a temporary use agreement and not an ownership agreement. City Attorney White stated there appeared to be different interpretations and suggested that the temporary use be clarified.

Councilor Lee questioned what the Land Agreement identified. City Attorney White explained the focal point on the Land Agreement was the sixty day notice. The proponents for the community garden implied that sixty day notice was only implacable in the event of sale or construction and this also needed to be clarified.

Councilor Lee asked City Attorney White to define the Community Garden Agreement. City Attorney White explained the Community Garden Agreement explained the obligations and responsibilities of the applicants.

Councilor Lee questioned the legality of allowing the community garden to be located on city property in Jarboe Park. City Attorney White replied the conditional use of the public property was legal and also applies equally to other groups.

Councilor Pardee asked if the Right of Way Use Agreement also applied to other groups equally. City Attorney White replied "yes" it also applied equally to other groups.

Councilor Pardee felt the location of the community garden should satisfy the residents of Neptune Beach first. He suggested placing the issue on the ballot as a referendum for the residents to decide.

Councilor Weldon felt the Council should consider the concerns of the abutting neighbors and their right to object. He proposed relocating the garden to the alternate site and having the public services department provide assistance to the group by transferring all materials and helping prepare the site. He also proposed offering the group a two year guaranteed commitment for the alternate site if they comply with all other provisions of the agreements.

Moved by Weldon, seconded by Pruette.

Motion: **THE CITY COUNCIL DIRECT STAFF TO COOPERATE IN THE RELOCATION OF THE COMMUNITY GARDEN FROM THE CURRENTLY APPROVED SITE TO THE NEW SITE WHICH HAS BEEN DISCUSSED AND DEMONSTRATED ADJACENT TO THE BALL FIELD INSIDE JARBOE PARK. AS PART OF THIS AGREEMENT THE CITY WILL ATTEMPT IN ANY WAY TO ASSIST IN THIS RELOCATION AND TO FACILITATE THE PREPARATION OF THE NEW SITE THROUGH THE USE OF PUBLIC WORKS PERSONNEL AND EQUIPMENT. IN ADDITION WILL CONSIDER RUNNING WATER TO THE SITE WHICH WILL SUBSEQUENTLY BE METERED FOR PAYMENT AS IT IS UTILIZED. AND PROPOSE A TWO YEAR GUARANTEED COMMITMENT BY THE CITY COUNCIL OF NEPTUNE BEACH THAT WE WILL NOT CHANGE OUR MIND AGAIN THAT WE WILL NOT BRING THIS BACK BEFORE COUNCIL FOR RECOGNITION AS LONG AS ALL OTHER PROVISIONS OF THE LAND USE AGREEMENT ARE COMPLIED WITH BY THE COMMUNITY GARDEN ORGANIZATION. ALSO CONTINGENT UPON RESOLVING THE ISSUE OF THE USE WITHIN THE CONFINES OF THE PARK AND PREPARING THE APPROPRIATE DOCUMENTS ACCEPTABLE TO BOTH SIDES.**

Mayor Brown stated he would support the proposal and asked Mr. Jarboe and Mr. White to meet and discuss if any legal issues.

Councilor Pardee stated Section 103 of the Neptune Beach Charter states "the city should have all governmental corporate and power to conduct municipal government, perform municipal functions and render municipal services and may exercise any power for municipal purposes except as expressly prohibited from reducing the size of any parks or parklands without prior approval of the voters." He was concerned allowing the community garden in the park would indeed reduce the size of the parkland because it would not be accessible to everyone. He felt the issue should be placed on the ballot as a referendum.

City Attorney White responded preservation of the park and parklands did not stipulate that it could not be used for certain reasons and because the Council was interested in allowing the community garden in the park this would have to be reviewed.

Councilor Weldon voiced concerned about not having heard this opinion from the City Attorney prior to the meeting.

City Attorney White state this issue was not presented to him for an opinion.

Mayor Brown stated it would still be appropriate for the Council to make a decision regarding the alternate location contingent upon the other issues.

Vice Mayor Pruette asked Leslie Lyne to approach the podium and speak to the previous referendum to preserve parkland in which Councilor Pardee referred to earlier.

Leslie Lyne, 501 Hopkins Street, stated she was on the Council in 1995. At that time there was a proposal to relocate City Hall into Jarboe Park. The intent of the referendum was not to build any permanent structures in parklands.

City Attorney White questioned if the motion was contingent upon resolving the issue of the use of a community garden in the park and preparing the appropriate documents. He added that he would have an opinion on the use of the parklands for a community garden by the end of next week.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Recess/Reconvene Mayor Brown called a recess at 7:45 p.m. and reconvened the meeting at 7:50 p.m.

CONSENT AGENDA

APPROVAL OF TOWN CENTER ART WALK: To approve the Art Walk to be held in Town Center twelve times per year with the original rules and regulations.

Moved by Weldon, seconded by Pruette.

Motion: TO APPROVE THE CONSENT AGENDA ITEM A.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

VARIANCES / NONE

ORDINANCES

Ord. No. 2008-05 ORDINANCE NO. 2008-05, OUTDOOR SALES – 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.

Councilor Pardee was concerned about abutting store owners taking inventory to the street to sell. City Manager Jarboe stated he would make sure the Code was enforced.

Moved by Pardee, seconded by Pruette.

Motion: TO PASS ORDINANCE NO. 2008-05 ON FIRST READ.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2008-07

ORDINANCE NO. 2008-07 – ANIMALS – FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING SECTION 6-17 ANIMALS CAUSING INJURY, ADDING SECTION (b) AND DELETING SECTION 6-29 PERSONS BITTEN MUST REPORT TO POLICE DEPARTMENT AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor Pruette stated she was informed by Chief Sembach that this ordinance would update the existing ordinance. Chief Sembach agreed.

Move by Weldon, seconded by Lee.

Motion: TO PASS ORDINANCE NO. 2008-07 ON FIRST READ.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

OLD BUSINESS

Res. No. 2008-06

RESOLUTION NO. 2008-06: A RESOLUTION OF THE CITY OF NEPTUNE BEACH, FLORIDA DESIGNATING PROPERTY LOCATED AT 720 ATLANTIC BOULEVARD AND A PORTION OF THE LEMON STREET RIGHT OF WAY AS A BROWNFIELD AREA FOR ENVIRONMENTAL REHABILITATION AND ECONOMIC DEVELOPMENT AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown opened the public hearing.

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

Moved by Pruette, seconded by Lee.

Motion: TO APPROVE RESOLUTION NO. 2008-06

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Res. No. 2008-09

RESOLUTION 2008-09: A RESOLUTION OF THE CITY OF NEPTUNE BEACH, FLORIDA ESTABLISHING CERTAIN CHARGES OR FEES FOR SOLID WASTE COLLECTION SERVICES.

Moved by Pruette, seconded by Weldon.

Motion: TO APPROVE RESOLUTION NO. 2008-09

Roll Call Vote:

Ayes: 5 – Pruette, Weldon, Brown

Noes: 2 – Lee, Pardee

MOTION CARRIED

NEW BUSINESS

Agenda Amendment FORECLOSURE ON 1602 – 1604 FIRST STREET: City Attorney White asked the Council to consider a motion to approve settlement on this code enforcement lien in the amount of \$6,000.

Moved by Pruette, seconded by Weldon.

Motion: **TO APPROVE SETTLEMENT ON CODE ENFORCEMENT LIEN FOR 1602-1604 FIRST STREET IN THE AMOUNT OF \$6,000.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

FORECLOSURE ON 1403 OCEANFRONT: City Attorney asked the Council to consider a motion to approve settlement in this code enforcement case in the amount of \$27,000 to be paid to the city by the property owner within 30 days from today.

Moved by Weldon, seconded by Pardee.

Motion: **TO APPROVE SETTLEMENT ON CODE ENFORCEMENT CASE IN THE AMOUNT OF \$27,000 FOR 1403 OCEANFRONT.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Res. No. 2008-10 RESOLUTION NO. 2008-10: A RESOLUTION APPOINTING MEMBERS TO THE BOARD OF APPEALS AND THE CODE ENFORCEMENT BOARD.

City Clerk Volpe stated Mr. Naughton would not be able to serve on the Code Enforcement Board and did not wish to be reappointed.

Moved by Weldon, seconded by Pardee.

Motion: **TO APPROVE RESOLUTION NO. 2008-10 AS AMENDED DELETING MR. NAUGHTON FROM THE CODE ENFORCEMENT BOARD.**

Mr. Franklin, alternate appointee to the Board of Appeals, introduced himself to the Council.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

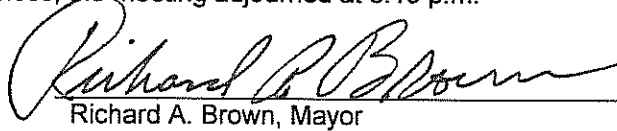
EAR APPROVAL OF PLANNING & DEVELOPMENT REVIEW BOARD'S EVALUATION APPRAISAL REPORT – COMMUNITY ISSUES:

City Manager Jarboe stated there were concerns among the Council and suggested forwarding the EAR to the June workshop meeting.

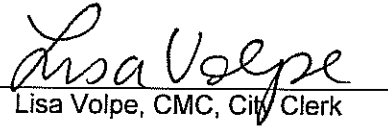
Consensus: **FORWARD TO THE JUNE WORKSHOP MEETING.**

Adjournment

There being no further business, the meeting adjourned at 8:15 p.m.


Richard A. Brown, Mayor

ATTEST:


Lisa Volpe, CMC, City Clerk

Approved: 7-7-08