



**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**FEBRUARY 2, 2009 AT 6:00 P.M.**  
**CITY HALL, 116 FIRST STREET,**  
**NEPTUNE BEACH, FLORIDA**

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Pursuant to proper notice a Regular Meeting of the City Council of the City of Neptune Beach was held February 2, 2009 at 6:00 p.m., in the City Hall Council Chambers, 116 First Street, Neptune Beach, Florida.

Attendance	IN ATTENDANCE:	STAFF:
	Mayor Harriet Pruette	Community Development Director Amanda Askew
	Vice Mayor John Weldon	Senior Activities Center Director Leslie Lyne
	Councilor Fred Lee	Director of Finance Steve Ramsey
	Councilor Eric Pardee	Director of Public Safety David Sembach
	Councilor Kara Tucker	Director of Public Service Leon Smith
	City Attorney Christopher White	
	City Manager Jim Jarboe	
	City Clerk Lisa Volpe, CMC	

Order Call/Pledge Mayor Pruette called the meeting to order at 6:00 p.m. and asked Councilor Lee to lead the pledge of allegiance.

**AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS**

Police Officer of the Year Mayor Pruette and Chief Sembach presented the "Police Officer of the Year Award" to Michael Key. Chief Sembach explained Officer Key was selected by a panel of seven of his peers. In 2008, he made 17 DUI arrests, 17 felony arrests, 117 total arrests, and wrote 325 traffic tickets.

Life Saving Awards Mayor Pruette and Assistant Chief Carrillo presented "Police Officer Life Saving Awards" to Officers Brad Ivey and Officer David Focht for saving three people from drowning in the ocean during Tropical Storm Fay.

**APPROVAL OF MINUTES**

Moved by Lee, seconded by Tucker

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

**JANUARY 5, 2009, REGULAR CITY COUNCIL MEETING**

Roll Call Vote:

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

Noes: 0

**MOTION CARRIED**

**COMMUNICATIONS AND CORRESPONDENCE**

Mayor Pruette disclosed she spoke with Angela Oesterreicher, P.K. Breeding and Christine Chin regarding the variance appeal.

City Clerk Volpe reminded the Council the February workshop meeting would be held on February 23, 2009.

City Manager Jarboe stated at the request of Curtis Winter, owner of Sun Dog Diner, the sidewalk lease agreement was postponed and forwarded to the February workshop meeting.

**CITY MANAGER REPORT**

City Manager Jarboe reported the following:

- Public Services made a temporary repair to a sewer manhole break in the 900 block of Penman Road. Further repairs were necessary and by piggybacking off an Atlantic Beach contract it would cost the city approximately \$8,000.
- The Kings Road bridge repairs should be completed in the next couple of weeks.
- He was concerned about pipe breakage during the upcoming cold weather.

**COMMENTS FROM THE PUBLIC / NONE****CONSENT AGENDA**

Res. No. 2009-02      RESOLUTION NO. 2009-02: A RESOLUTION ESTABLISHING FEES TO BE CHARGED FOR COPY OF PUBLIC RECORDS, CERTIFIED COPY OF PUBLIC RECORD; VARIOUS APPLICATIONS, BAR CARDS, CITY CODE BOOK, LIEN LETTERS, BUSINESS TAX RECEIPT LIST, ZONING MAP, AND SERVICE CHARGE FOR EXTENSIVE USE OF CITY PERSONNEL TO COMPLY WITH PUBLIC RECORD REQUESTS.

Res. No. 2009-03      RESOLUTION NO. 2009-03: A RESOLUTION OF THE CITY OF NEPTUNE BEACH, FLORIDA RECOGNIZING THE "BUILDING CITIZENSHIP IN THE COMMUNITY; BACK TO BASICS" INITIATIVE OF THE FLORIDA LEAGUE OF CITIES, INC., AND PLEDGING SUPPORT FOR THIS STATEWIDE EFFORT.

Moved by Lee, seconded by Tucker

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

Roll Call Vote:

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

Noes:     0

MOTION CARRIED

**VARIANCES**

V09-02            VARIANCE APPEAL FOR V09-02 – 401 LORA STREET – ANGELA OESTERREICHER:  
401 Lora Street      The applicant is seeking a variance of 10 feet to the minimum rear yard setback leaving 15  
Oesterreicher        feet in lieu of the required 25 foot setback. The applicant is proposing to add a covered  
                                 porch to the north side of the house (along Lora Street). The proposed porch encroaches  
                                 into the rear yard setback.

City Attorney White explained the Board of Appeals vote to approve the variance ended in a tie. Council could consider the tie vote to be a denial and hear the appeal of the applicant or send it back to the Board of Appeals. He recommended the Council go ahead

and hear the appeal in order to save the applicant time. He added the Code should be amended to add language in Section 27-150 that would specifically state that a tie vote be considered a denial.

Moved by Lee, seconded by Weldon

Motion: **TO HEAR THE VARIANCE APPEAL.**

Roll Call Vote:

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

Noes: 0

**MOTION CARRIED**

City Attorney White stated the appeal was based on the record of the Board of Appeals meeting which was included in the agenda packet. He recommended Council not solicit additional comments from the public, the board, or the applicant.

Councilor Pardee questioned why the Board of Appeals did not make an alternate motion to break the tie vote. City Attorney White stated the Council has already voted to hear the appeal and it would be inappropriate to send it back to the Board for further motions.

Councilor Pardee stated he would not have a problem reversing the decision of the Board of Appeals because the french doors on the front of the house were not protected by an awning or roof.

Councilor Weldon questioned why the variance referred to the rear yard when the house fronted Lora Street. Community Development Director Askew explained the front yard was actually on Third Street, the corner side yard faced Lora Street and the rear yard was considered the western side of the lot.

Councilor Weldon stated the applicants were not asking for anything other than the same rear yard setback that was previously approved by the Board of Appeals. Granting this would only extend the previously approved variance.

Councilor Weldon asked if Christine Chin, Chair of the Board of Appeals, could address the Council. Mayor Pruette replied if the Council allowed Mrs. Chin to speak they would also have to allow the applicant to speak and they were supposed to rely on the record and not hear any new evidence.

Council Weldon stated he did not see this as a big expansion of the original variance that was approved by the Board. He wanted to ask Mrs. Chin if the Board would have approved this portion had it been included in the original request.

Councilor Lee asked the Council to consider placing variance requests on the March workshop meeting to discuss the duties of the Board of Appeals and the Code. He felt Council should review the Code because of the percentage of approvals on variance requests.

Councilor Pardee asked the Council to keep in mind this appeal was requested by the original applicant and was not appealed by a neighbor.

Mayor Pruette stated the Council could confirm, modify or reverse the decision of the Board of Appeals and asked for a motion.

Moved by Pardee, seconded by Tucker

Motion: **TO REVERSE THE DECISION OF THE BOARD OF APPEALS FOR V09-02, 401 LORA STREET.**

Roll Call Vote:

Ayes: 3 – Pardee, Tucker, Weldon

Noes: 2 – Lee, Pruette

MOTION CARRIED

**ORDINANCES / NONE**

**OLD BUSINESS**

EAR

EAR – 2008 EVALUATION AND APPRAISAL REPORT OF THE 2010 COMPREHENSIVE PLAN: City Manager Jarboe explained the city was required by the State to review the Comprehensive Plan. The State would review the EAR and notify the city if any modifications were needed. This will also aid in preparing the 2030 Comprehensive Plan.

Moved by Lee, seconded by Tucker

Motion: **TO APPROVE THE EAR 2008 EVALUATION AND APPRAISAL REPORT OF THE 2010 COMPREHENSIVE PLAN AND FORWARD IT TO THE DCA.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

**NEW BUSINESS**

Res. No. 2009-04

RESOLUTION NO. 2009-04 APPOINTING BOARD MEMBERS: A RESOLUTION APPOINTING MEMBERS TO THE BOARD OF APPEALS.

Mr. Edward Treffinger introduced himself to the Council. He explained he has lived in Neptune Beach for 10 years and he was willing to serve on the Board of Appeals. Mayor Pruette stated he would be appointed as an alternate for a one year term.

Moved by Weldon, seconded by Lee

Motion: **TO APPROVE RESOLUTION NO. 2009-04.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

**DISCUSSION**

Mayor Pruette asked if anyone had any brief comments before the meeting was adjourned.

Councilor Lee requested placing the issue of variances on the March workshop meeting. He felt the Code was not doing its job if 95% of variance requests were being approved by the Board of Appeals.

Councilor Weldon agreed to place the issue on the March workshop meeting. However, he felt nothing was wrong with the Code or the required setbacks. He felt the Council should be more interactive with the Board of Appeals so the members understood their task,

which was to provide variances only when true hardship is demonstrated.

Mayor Pruetto stated the issue would be placed on the March workshop meeting.

Adjournment

There being no further business, the meeting adjourned at 6:40 p.m.

ATTEST:

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Harriet Pruetto, Mayor

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Lisa Volpe, CMC, City Clerk

Approved: \_\_\_\_\_