



MINUTES
WORKSHOP CITY COUNCIL MEETING
MARCH 16, 2009, AT 6:00 P.M
CITY HALL, 116 FIRST STREET
NEPTUNE BEACH, FLORIDA

Pursuant to proper notice a Workshop Meeting of the City Council of the City of Neptune Beach was held March 16, 2009 at 6:00 p.m., in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida.

Attendance:

IN ATTENDANCE:

STAFF:

Mayor Harriet Pruette
Vice Mayor John Weldon
Councilor Fred Lee
Councilor Eric Pardee
Councilor Kara Tucker
City Manager Jim Jarboe
City Clerk Lisa Volpe, CMC

Community Development Director Amanda Askew
Senior Center Director Leslie Lyne
Director of Finance Steve Ramsey
Director of Public Safety David Sembach
Director of Public Services Leon Smith
Deputy City Clerk Karla Strait, CMC

ABSENT:

City Attorney Christopher White

Call to Order/Roll Call

Mayor Pruette called the meeting to order at 6:00 p.m.

PRESENTATIONS

Mayor Pruette presented a plaque to Mr. Fred Cattar for his service on the Board of Appeals and the Planning & Development Review Board.

Mayor Pruette presented a Proclamation, to Mr. Ellis P. and Mary Elizabeth Pope Day, proclaiming April 1st as "Mr. Ellis Pope and Mary Elizabeth Pope Day" in honor of their 65th Wedding Anniversary.

CITY MANAGER'S ACTION LIST

City Manager Jarboe reported on the following:

- The city did not have any ready projects to qualify for stimulus money. We have requested \$12,000,000 for road, water and sewer improvements.
- The Kings Road Bridge project is nearing completion.

PUBLIC COMMENTS

Bryan MacDonald, 107 North Street, voiced concern regarding people not picking up after their dogs and offered to provide a poop station. Mayor Pruette suggested Mr. MacDonald meet with City Manager Jarboe regarding the placement.

PROPOSED ORDINANCES

Rules of Debate

ORDINANCE NO. 2009-XX, RULES OF DEBATE: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 1 ADMINISTRATION, ARTICLE II CITY COUNCIL, AMENDING SECTION 2-35 RULES OF DEBATE AND PROVIDING AN EFFECTIVE DATE

Councilor Pardee stated the Council required the City boards to adopt Robert's Rules of Order. Because it would require a referendum for the Council to adopt "Robert's Rules of Order" he approved the addition of the following language to Chapter 2, Section 2-35 Rules of Debate: (8) In all cases involving points of parliamentary law, "Robert's Rules of Order" shall be the book of reference, and its rules, so far as they are applicable and not in conflict with the provisions of the city's Charter, this Code or other city ordinances, shall be the rules of the City Council.

Mayor Pruetto agreed to sponsor the Ordinance.

Consensus: **FORWARD TO THE APRIL MEETING FOR FIRST READ.**

CONTRACTS / AGREEMENTS / NONE

ISSUE DEVELOPMENT

Identity Theft
Prevention Program

IDENTITY THEFT DETECTION AND PREVENTION PROGRAM: City Manager Jarboe advised the adoption of the Identity Theft Detection and Prevention Program Policy was required by the Federal Government to protect our citizens.

Councilor Lee asked if the employees would be trained on the policy. Finance Director Ramsey advised employees that handle confidential information of citizens would be trained and informed. Councilor Lee questioned what the ramifications would be to an employee who violated the policy. Finance Director Steve Ramsey replied any employee who violated the policy would be terminated.

Consensus: **FORWARD TO THE APRIL CONSENT AGENDA.**

Board of Appeals /
Variances

BOARD OF APPEALS / VARIANCES: Mayor Pruetto thanked all members of the Board of Appeals for their attendance and asked them to come forward and be seated at the table in front of the Council.

Community Development Director Amanda Askew stated she compiled statistics on decisions made by the Board of Appeals from 2005 to 2008 which showed an approval rate of 91%. She felt the board members had difficulties deciding on finding of facts, particularly "what is a hardship." The purpose of the Board is to grant relief from the Code on variance applications provided the findings of fact are met by the applicant. In some cases the Board will modify the original request to lessen the amount of the encroachment.

Councilor Lee stated he brought forward the discussion in an effort to assist and support the Board of Appeals. He wanted to hear, from board members, how the Council could help the board and minimize variance appeals being overturned by the Council.

Councilor Pardee felt it would be fair for the Board to vote on the applicant's original presentation before modifying and recommending amendments to the application. Then if the motion for the original presentation was denied a new motion could be brought forward.

Councilor Tucker also asked the Board how Council could assist and support the Board

Councilor Weldon stated it was his perception, based on the information provided by the Community Development Director, that the Board was approving too many variances. He was concerned about the long range impact this would have on the R-3 and R-4 zoning districts. He stated Council revised the Land Development Regulations in 2004 in an effort to reduce the amount of variance requests. He agreed the Code should be flexible but was concerned about inconsistencies in the way variances are approved.

Mayor Pruette stated the Land Development Regulations were revised in an effort to prevent "McMansions." The setbacks were also revised to reduce the number of variances.

Chris Chin, Chair of the Board of Appeals, stated the statistics did not include that most of the variances approved had been modified by the Board. She felt Council could aid the Board by providing a clear definition of "hardship." She also suggested the city provide each member of the board four mock variance requests to be compared and discussed at a future meeting; one of which should be a clear approval, one being a clear denial and two of them being in gray areas. She felt Community Development Director Askew should meet with each new board member to explain what legally constitutes a "hardship."

Board Member Reeve felt the Council was giving the Board mixed signals by overturning requests denied by Board. He felt new evidence should not be allowed to be introduced such as written correspondence on an appeal. Mayor Pruette stated a letter, which was new evidence, was placed in front of the Council one night before an appeal.

Mayor Pruette explained on variance appeals the Council was to determine if competent substantial evidence to support the Board's decision. She stated City Attorney White had advised more than once the Council to look at the appeal not the variance request.

Councilor Lee felt it was a good suggestion for the city to provide mock variance requests with different scenarios and work through each response with City Attorney White at a workshop meeting.

Board Member Baker questioned whose responsibility it was to challenge new evidence or incorrect information that was inappropriately presented to the Council.

Councilor Lee agreed the only speakers on an appeal should be those that were present and spoke "on the record" during the Board of Appeals meeting.

Mayor Pruette stated she would meet with City White regarding the consequences of those presenting or introducing new evidence.

Councilor Pardee stated City Attorney White should take a proactive role and speak up when something the Council allows is not legal. Mayor Pruette stated City Attorney White has warned Council many times not to allow speakers on appeals.

City Clerk Volpe stated the person appealing the Board's decision had to complete an application explaining the reason for the appeal.

Board Member Reeve stated if the applicant for the appeal was able to explain their side of the argument, a representative of the Board should also be allowed to explain their argument on behalf of the Board's decision. City Clerk Volpe stated the Council does receive a full verbatim of the Board of Appeals meeting.

City Manager Jarboe stated Section 27-153(c)(3) of the Code allowed new evidence to be introduced if the new evidence is due to substantial changes in the circumstances.

Board Member Franklin stated other cities allowed each side to give an oral argument and present a memorandum noting the reason for the appeal. He agreed new speakers and

new evidence should not be allowed.

Community Development Director Amanda Askew stated the statistics included approvals for existing non-conformities. She suggested amending the Code to allow staff to approve variance requests for existing non-conformities.

Mayor Pruette asked Mrs. Askew to draft an ordinance to have variance requests for existing non-conformities approved at the staff level.

Councilor Pardee felt public speakers should not be allowed to allot their five minutes to another speaker. He suggested amending the code to not allow public speakers on variance appeals.

Vice Mayor Weldon stated other cities sent variance appeals directly to the circuit court. He felt the determination of a "hardship" was not difficult. A "hardship" is a characteristic of the property that was not fair to the owner. He added the Land Use Code was revised in 2004 to reduce the number of variance requests. He felt approvals of variances requests undermined the revised Code and they should not be approved for the convenience of the property owner.

Board Member MacDonald felt Community Development Director Askew should educate applicants on the definition of a "hardship."

City Manager Jarboe suggested amending the Code to allow speakers on variance appeals to speak after the appeal vote has been taken.

Board Member Baker felt the Board of Appeals was not taken seriously when the Council overturns their decisions.

Board Member Baines stated the Board would suggest amendments to variance request when it was obvious the original request would not be approved. This prevented the applicant from having to apply and pay another fee for another variance. She added most applicants agree to the Board's recommendations.

Chair Chin stated the Board would discuss whether or not to suggest amendments to applicants before voting on the original requests.

Mayor Pruette asked City Manager Jarboe and Community Development Director Askew to bring back information to the Council for review.

Consensus: **TO HAVE COMMUNITY DEVELOPMENT DIRECTOR ASKEW BRING BACK INFORMATION FOR COUNCIL REVIEW AND DETERMINE IF THE CODE NEEDED TO BE REVISED.**

DISCUSSION

Mayor Pruette encouraged Mr. John Reeve to remain on the Board of Appeals for a second regular three year term and he stated he would like to do so.

Councilor Tucker advised the Council and the assembly she was recently appointed to the Human Relation Board by Governor Christ.

Mayor Pruette asked if there were any other comments from Council or staff before she adjourned the meeting.

Adjournment

There being no further business, the meeting adjourned at 7:30 pm.

Harriett Pruetter, Mayor

Attest:

Lisa Volpe, CMC, City Clerk

Approved: _____