



**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**MAY 4, 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 May 4, 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  
 Councilor Fred Lee  
 Councilor Eric Pardee  
 Councilor Kara Tucker  
 Vice Mayor John Weldon  
 City Attorney Christopher White  
 City Manager Jim Jarboe  
 City Clerk Lisa Volpe, CMC

Community Development Director Amanda Askew  
 Director of Finance Steve Ramsey  
 Director of Public Safety David Sembach  
 Director of Public Service Leon Smith

Order Call/Pledge

Mayor Pruette called the meeting to order at 6:00 p.m. and asked Vice Mayor Weldon to lead the Pledge of Allegiance.

**AWARDS / PRESENTATIONS / RECOGNITION OF GUESTS**

Mayor Pruette announced former Mayor Richard Brown's art work was being displayed on the art wall in the Council Chambers.

PRESENTATION OF CITY AUDIT / MASTERS, SMITH & WISBY: Gary Hugget, Representative for Masters, Smith & Wisby, presented the financial report for the year ending September 30, 2008. Mr. Hugget explained the assets of the Enterprise Fund decreased by \$488,000, the General Fund increased by \$133,099, and the Special Revenue Fund decreased \$25,886. There was also a small deficit in net assets. He felt the city needed to increase net assets in order to strengthen the financial health of the city.

Mayor Pruette stated unfortunately rates needed to be raised. She felt the city needed to implement a plan to collect payment for unpaid utility bills.

Councilor Lee asked Finance Director Ramsey how many years it would take to build up the funds. Mr. Ramsey replied he hoped to build the funds up by 2011.

Councilor Pardee felt new development of vacant commercial properties would help increase revenue.

Vice Mayor Weldon asked Mr. Hugget to give his general opinion of the overall condition of the city's finances. Mr. Hugget responded there was room for improvement. The city should strive to build up three months of operating expenses in the Reserve Fund.

Councilor Weldon asked Mr. Hugget for his opinion of the overall accounting procedures of the City. Mr. Hugget replied there were some small scratches and bruises that needed fixing, but an overall good job.

### **APPROVAL OF MINUTES**

Moved by Lee, seconded by Tucker

Minutes

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

**APRIL 6, 2009, REGULAR CITY COUNCIL MEETING**  
**APRIL 20, 2009, SPECIAL CITY COUNCIL MEETING**  
**APRIL 20, 2009, WORKSHOP CITY COUNCIL MEETING**

Roll Call Vote:

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

Noes: 0

**MOTION CARRIED**

### **COMMUNICATIONS AND CORRESPONDENCE**

#### **CITY MANAGER REPORT**

- Due to summer crowds the Public Services Department was using a lot of overtime to keep the beach clean during weekends.
- The Public Services Department received the street sweeper last week.
- A study of the nitrogen issue was being conducted to determine if it would be feasible to unite the waste water with the City of Atlantic Beach.
- FEMA money for reimbursement of clean up after Tropical Storm Fay still has not been received.
- The City of Jacksonville Beach presented a check for \$50,000 and the State of Florida contributed \$100,000 towards the King Road Bridge repairs.
- Many new commercial developments were in progress.

Mayor Pruette questioned the progress of the development order that was approved for the Mexican Restaurant at the old Taco Bell site. City Manager Jarboe replied they decided not to proceed with those plans. However, another party was interested in opening a sports bar on the site.

#### **COMMENTS FROM THE PUBLIC**

T. R. Seman, 242 Windswept Circle, Treasurer of the Summer Sands Homeowners Association, asked Council to place the irrigation of Brant Avenue on a workshop agenda. Mayor Pruette stated she would place the issue on the May workshop agenda.

Mr. John King, 111 Florida Boulevard, suggested filling in the drainage ditch between the shopping centers on Atlantic Boulevard to provide easier access to shopping.

#### **CONSENT AGENDA**

**FORFEITURE FUND EXPENDITURES:**

Moved by Weldon, 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 / NONE**

**ORDINANCES**

Ord. No. 2009-03 ORDINANCE NO. 2009-03, AMENDING SECTION 2-35 RULES OF DEBATE, SECOND READ AND PUBLIC HEARING: AN ORDINANCE AMENDING THE CODE OF ORDINANCES 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.

Mayor Pruette read Ordinance No. 2009-03 by title only and opened the public hearing.

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

Moved by Weldon, seconded by Tucker

Motion: **TO ADOPT ORDINANCE NO. 2009-03 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:  
Ayes: 5 – Lee, Pardee, Tucker, Weldon, Pruette  
Noes: 0

MOTION CARRIED

Ord. No. 2009-04 ORDINANCE NO. 2009-04, AMENDING CHAPTER 27, ARTICLE XVIII, SECTION 27-706, NONCONFORMING DEVELOPMENT, FIRST READ AND PUBLIC HEARING: AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE XVIII NONCONFORMING LOTS, STRUCTURES, USES AND SIGNS, SECTION 27-706 NONCONFORMING DEVELOPMENT, AND PROVIDING AN EFFECTIVE DATE.

Mayor Pruette read Ordinance No. 2009-04 by title only and opened the public hearing.

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

Moved by Weldon, seconded by Lee

Motion: **TO PASS ORDINANCE NO. 2009-04 ON FIRST READ AND PUBLIC HEARING**

Roll Call Vote:  
Ayes: 5 – Lee, Pardee, Tucker, Weldon, Pruette  
Noes: 0

MOTION CARRIED

Ord. No. 2009-05 ORDINANCE NO. 2009-05, AMENDING CHAPTER 27, ARTICLE III, SECTION 27-147 REQUIRED FINDINGS, FIRST READ AND PUBLIC HEARING: AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE III ADMINISTRATIVE AND ENFORCEMENT PROCEDURES, SECTION 27-147

REQUIRED FINDINGS NEEDED TO ISSUE A VARIANCE AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor Weldon suggested amending the Ordinance to read as follows: However, the hardship cannot be ~~created or be~~ the result of a property owner's own action or granted solely for the personal comfort or convenience of the property owner or for relief from financial circumstances.

Mayor Pruette read Ordinance No. 2009-05 by title only and opened the public hearing.

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

Moved by Weldon, seconded by Tucker

Motion: **TO PASS ORDINANCE NO. 2009-05 ON FIRST READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

**OLD BUSINESS / NONE**

**NEW BUSINESS**

PDRB 09-03  
400 Penman Rd.

PDRB 09-03 – SPECIAL EXCEPTION – CHRIST UNITED METHODIST CHURCH – 400 PENMAN ROAD: City Manager Jarboe explained the special exception was for a nonprofit private school. The Unified Land Development Regulations require a special exception for schools in residential zoning districts.

Vice Mayor Weldon was concerned about the condition of the old building. He asked if the building would be upgraded to meet current code standards for children. Ms. Miller replied the building would be upgraded.

Councilor Lee clarified the Church currently operated a pre-school and kindergarten the special exception would expand the school to operate through grade 12.

Councilor Pardee questioned if the surrounding neighbors were notified and if there was opposition during the public hearings. Community Development Director Askew replied all property owners within 300 feet were noticed and a sign was posted on the property.

Moved by Lee, seconded by Tucker

Motion: **TO APPROVE THE SPECIAL EXCEPTION FOR CHRIST UNITED METHODIST CHURCH – 400 PENMAN ROAD.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

V09-05,  
PDRB 09-04 &  
PDRB 09-06

V09-05 NINE VARIANCES, PDRB 09-04 REPLAT, AND PDRB 09-06 DEVELOPMENT ORDER FOR REGENCY CENTER SEMINOLE SHOPPE – 630 ATLANTIC BOULEVARD:

Moved by Weldon, seconded by Lee

Motion: **TO APPROVE THE RECOMMENDATIONS OF THE PLANNING & DEVELOPMENT REVIEW BOARD FOR ALL NINE VARIANCES V09-05, THE REPLAT PDRB 09-04 AND THE DEVELOPMENT ORDER PDRB 09-06.**

Tom Fleming, Representative for Regency Centers, explained Regency Center, a company based in Jacksonville, is the managing partner for redevelopment of the site. He explained the first phase of the development would be Publix, the anchor tenant, and the connected retail. The second phase will be an anticipated bank at the current Blockbuster location. The remaining development would be driven by the market.

Once the project is approved by the Council they will immediately begin drawing the construction plans to obtain the building permit. This would take approximately four months. Once the building permit is obtained they will begin demolishing the existing building. By late summer or early fall the first phase of the project should begin. They expect to begin construction on the second phase of the development in the third or fourth quarter of 2010.

Vice Mayor Weldon was concerned about the traffic flow and asked Mr. Fleming if he would agree to support the construction of a drive through to the K-mart Shopping Center. Mr. Fleming responded that they could not make a commitment however; he felt it would make sense to pursue it in the future.

Vice Mayor Weldon also voiced concern regarding the intersection modifications. Mr. Fleming advised they were currently working with Florida Department of Transportation regarding the improvements of the intersections.

Councilor Lee was also concerned about traffic flow and asked Mr. Fleming to help in any way possible. Mr. Fleming stated he was aware of the traffic situation and they would do whatever they could to improve the situation.

Councilor Lee asked if the Neptune Mall signs would be removed. Mr. Fleming replied "yes" those signs would be removed.

Councilor Pardee asked if Publix had executed the lease agreement. Mr. Fleming replied the lease was contingent upon approval of the development order by the Council.

Councilor Pardee was concerned what would happen if the plans for the development did not go through. He felt if Council approved the site for a Publix it would also make the site available to any other anchor store.

Councilor Pardee asked if there would be two Publix stores for any time period. Mr. Fleming stated from his experience there is normally a transition using the existing staff and management and that may take a week or two.

Councilor Pardee asked if it was correct that the one parcel would be subdivided into three parcels. Mr. Fleming stated that was correct. Councilor Pardee asked how many total property owners there would be. Mr. Fleming stated there would be two different owners, maybe three.

Councilor Pardee asked who would be responsible for the drainage area behind the shopping center. Mr. Fleming stated the drainage area would be the responsibility of the master development under a separate agreement of the property owners.

Councilor Pardee asked Community Development Director Askew if the developer would be required to erect a fence or barrier behind the shopping center between the commercial and residential properties. Ms. Askew replied the Code required a solid wall or a ten foot landscape buffer. The southside of the retention pond currently has a buffer that is already

landscaped. The plans included adding more live oak trees and this would meet the intent of the Code.

Councilor Pardee asked if a barrier was necessary to decrease noise at the loading zone. Ms. Askew replied "no" a wall was not required. The Code required that the loading docks not be visible from the public right-of-way. If a noise issue arose it would be dealt with through Code Enforcement procedures.

Councilor Pardee stated the previous Winn Dixie development was required to bring the entire parking lot to Code in order to for a small addition. He asked if Regency Center was receiving credits for existing parking spaces or landscaping requirements. Community Development Director Askew explained because the development was starting from ground zero they were not receiving credits for parking spaces or landscaping. The development met the requirement of a landscape island for every 10 parking spaces.

Councilor Pardee asked if the neighbors had been notified. Community Developer Askew replied all property owners within three hundred feet were sent a letter regarding the variances. A sign was posted on the property. The notice was also on the website, in the Beaches Leader community newspaper, and posted in the City Hall building.

Councilor Pardee noted only one property owner was present at the PDRB.

For the Record Mayor Pruette stated for the record she received an opinion letter from City Attorney and quoted the following portion of the letter: "As you are no longer employed by Publix Supermarkets there is no real conflict or an appearance of conflict of interest to you that would exempt you from voting on the proposed Regency Center Seminole Shoppe."

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Mayor Pruette encouraged Regency Center to begin construction as soon as possible.

OPEN DISCUSSION

Mayor Pruette asked if anyone had anything to add.

Adjournment There being no further business, the meeting adjourned at 7:15 p.m.

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Harriet Pruette, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Volpe, CMC, City Clerk

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