



MINUTES
REGULAR CITY COUNCIL MEETING
NOVEMBER 2, 2009 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 November 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
 Vice Mayor John Weldon
 Councilor Fred Lee (arrived 6:10 p.m.)
 Councilor Eric Pardee
 Councilor Kara Tucker
 City Attorney Christopher White
 City Manager Jim Jarboe
 City Clerk Lisa Volpe, CMC

Community Development Director Amanda Askew
 Senior Activity 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 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

APPROVAL OF MINUTES

Moved by Tucker, seconded by Pardee.

Minutes

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

OCTOBER 5, 2009, REGULAR CITY COUNCIL MEETING
OCTOBER 19, 2009, WORKSHOP CITY COUNCIL MEETING

Roll Call Vote:

Ayes: 4 – Pardee, Tucker, Weldon, Pruette
 Noes: 0
 Absent: 1 – Lee

MOTION CARRIED

COMMUNICATIONS AND CORRESPONDENCE

Mayor Pruette stated Vice Mayor Weldon tendered his resignation as Vice Mayor. She would like Council to discuss the issue under new business.

Mayor Pruette stated she was working with staff to have a barrier placed along the hazardous curve on Florida Boulevard.

CITY MANAGER REPORT

City Manager Jarboe reported the following:

- He was working with the County to have a barrier placed on Florida Boulevard.
- Currently an accident involving one fatality is being investigated on Atlantic Boulevard in front of the K-mart Shopping Center.
- There were eleven arrests made throughout the Georgia / Florida football game weekend.
- There will be a ground breaking for Seminole Shoppes Wednesday, November 4, 2009 at 2:00 p.m. The old building has been demolished and all previous code enforcement action has been terminated.

COMMENTS FROM THE PUBLIC

Scott Wiley, Davis Street, felt Ordinance No. 2009-13 outlining guidelines for abandoning public property did not need to be supported by a super majority vote of the Council.

Lynda Padrta, 1113 First Street, supported Ordinance No. 2009-13 because it defined guidelines for Council to follow when considering the abandonment of city property.

CONSENT AGENDA / NONE

VARIANCES / NONE

ORDINANCES

Ord. No. 2009-10 ORDINANCE NO. 2009-10, CHAPTER 4, ALCOHOLIC BEVERAGES, SECOND READ AND PUBLIC HEARING: AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 4 ALCOHOLIC BEVERAGES, SECTION 4-7 PERSONS NOT HOLDING AN ALCOHOLIC BEVERAGE LICENSE AND PROVIDING AN EFFECTIVE DATE.

Mayor Pruette read Ordinance No. 2009-10 by title only and opened the public hearing.

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

Moved by Lee, seconded by Pardee.

Motion: **TO ADOPT ORDINANCE NO. 2009-10 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2009-11 ORDINANCE NO. 2009-11, AMENDING CHAPTER 27, STREETS, SIDEWALKS, AND RIGHTS-OF-WAY, SECOND READ AND PUBLIC HEARING: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLOIRDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE X, STREETS, SIDEWALKS, AND RIGHTS-OF-WAY, SECTION 27-479 SIDEWALKS AND BIKEWAYS AND PROVIDING AN EFFECTIVE DATE.

City Manager Jarboe explained this Ordinance allowed the outdoor dining to remain open until 2:00 a.m.

Mayor Pruette read Ordinance No. 2009-11 by title only and opened the public hearing.

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

Moved by Tucker, seconded by Lee.

Motion: **TO ADOPT ORDINANCE NO. 2009-11 ON SECOND READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2009-12

ORDINANCE NO. 2009-12, AMENDING THE OPERATING BUDGET, FIRST READ AND PUBLIC HEARING: AN ORDINANCE AMENDING THE OPERATING BUDGET FOR THE CITY OF NEPTUNE BEACH, FLORIDA FOR FISCAL YEAR 2009, BEGINNING OCTOBER 1, 2008 AND ENDING SEPTEMBER 30, 2009.

Director of Finance Steve Ramsey explained this Ordinance amended the operating budget FY 08/09 to include an increase in revenue of \$94,000 and a decrease in the State revenue of \$65,500.

Mayor Pruette read Ordinance No. 2009-12 by title only and opened the public hearing.

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

Moved by Pardee, seconded by Tucker.

Motion: **TO PASS ORDINANCE 2009-12 ON FIRST READ AND PUBLIC HEARING.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2009-13

ORDINANCE NO. 2009-13, CHAPTER 18, ABANDONING OR PRIVATE USE OF PUBLIC PROPERTY, FIRST READ: AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA ADDING CHAPTER 18 SECTION 18-5 ABANDONING OR PRIVATE USE OF PUBLIC PROPERTY.

City Manager Jarboe explained this Ordinance provided guidelines for the abandonment of public property.

Moved by Weldon, seconded by Lee.

Vice Mayor Weldon felt it was important that the abandonment of public property be by a super majority vote.

Councilor Lee was concerned about the ramifications of the super majority vote as far as setting precedence for requiring super majority votes on other ordinances..

Mayor Pruette felt the super majority vote would protect the City.

Councilor Pardee agreed with Councilor Lee's concern regarding setting precedence for requiring super majority votes.

Councilor Lee was also concerned this Ordinance would not prevent future Councils from abandoning public properties because they would be able to change the Ordinance.

Motion: **TO PASS ORDINANCE NO. 2009-13 ON FIRST READ.**

Roll Call Vote:

Ayes: 2 – Weldon, Pruette

Noes: 3 – Lee, Pardee, Tucker

MOTION FAILED

Moved by Weldon, seconded by Lee.

Motion: **TO PASS ORDINANCE NO. 2009-13 ON FIRST READ STRIKING THE SECOND AND THIRD PARAGRAPH OF SECTION 18-5. TAKING OUT THE SUPER MAJORITY REQUIREMENT AND THE LAST PARAGRAPH WHICH APPLYS TO THE SUPER MAJORITY REQUIREMENT. LEAVING ONLY THE DESCRIPTION OF THE PERMANENT ABANDONMENT ISSUE AND FORWARD TO THE NOVEMBER WORKSHOP DISCUSSION.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

City Manager Jarboe stated Council voted on the amendment and they now had to vote on the Ordinance as amended.

Moved by Weldon, seconded by Pardee.

Motion: **TO PASS ORDINANCE NO. 2009-13 AS AMENDED.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Ord. No. 2009-14

ORDINANCE NO. 2009-14, AMENDING CHAPTER 2, ADMINISTRATION, POLICE OFFICERS RETIREMENT SYSTEM, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE V, EMPLOYEE BENEFITS, DIVISION 4, POLICE OFFICERS' RETIREMENT SYSTEM, SECTIONS 2-345 THROUGH 2-349.25, INCLUSIVE, OF THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

City Manager Jarboe stated this Ordinance amended the Police Officers Pension Fund to meet IRS and State guidelines. Three amendments were removed because they were not required.

Moved by Weldon, seconded by Pardee.

Motion: **TO PASS ORDINANCE NO. 2009-14 ON FIRST READ WITH THE THREE EXCEPTIONS.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

OLD BUSINESS / NONE

NEW BUSINESS

Caribbee Associates & Sundog Steak & Seafood

SIDEWALK LEASE AGREEMENT, CARIBBEE ASSOCIATES, LLC AND SIDEWALK LEASE AGREEMENT FOR SUNDOG STEAK AND SEAFOOD: City Manager Jarboe stated there was An error in Section 11 of the Sundog Steak & Seafood. It should read November 2, 2009 in lieu of August 1st.

Moved by Weldon, seconded by Tucker.

Motion: **TO APPROVE BOTH REVISED AND AMENDED SIDEWALK LEASE AGREEMENTS FOR CARIBBEE ASSOCIATES AND SUNDOG STEAK & SEAFOOD.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Res. No. 2009-16

RESOLUTION NO. 2009-16: A RESOLUTION REAPPOINTING MEMBERS TO THE PLANNING AND DEVELOPMENT REVIEW BOARD.

Moved by Lee, seconded by Tucker

Motion: **TO APPROVE RESOLUTION NO. 2009-16.**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

PDRB09-15
1585-1589 Atlantic Blvd.

PDRB09-15, SPECIAL EXCEPTION FOR OUTDOOR DINING AT 1585-1589 ATLANTIC BOULEVARD, TRADEWINDS PLAZA: City Manager Jarboe explained at the request of the Council he has provided rules for outdoor seating on private property similar to the guidelines for outdoor seating on public property. He asked Council to add the new policy in the motion when approving the outdoor seating for the following properties.

Councilor Pardee requested the requirement that the outdoor lighting be white in color be stricken from the policy.

City Manager Jarboe stated the policy was consistent with the guidelines for outdoor seating on public property.

Moved by Lee, seconded by Tucker.

Motion: **TO APPROVE THE OUTDOOR SEATING WITH THE POLICY AS AMENDED.**

Vice Mayor Weldon asked the owner to consider the rights of non-smokers to be able to dine outside. Mr. Darryl Grubbs, property owner, replied that he would speak with the restaurant

owner regarding the smoking conditions.

Mr. Grubbs requested a copy of the new policy for outdoor dining. City Clerk Volpe stated she provide him with a copy.

Councilor Pardee asked if a barricade would be provided to prevent vehicles from accidentally entering the area. Mr. Grubbs stated there would be a railing surrounding the area to prevent vehicle entry. He added parking was arranged parallel to the side of the area.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

PDRB09-16
211 Third St.

PDRB09-16, SPECIAL EXCEPTION FOR OUTDOOR DINING AT 211 THIRD STREET, THE LOOP:

Moved by Weldon, seconded by Pardee.

Motion: **TO APPROVE THE RECOMMENDATION OF THE PLANNING AND DEVELOPMENT REVIEW BOARD WITH THE SPECIAL EXCEPTION RULES.**

Councilor Pardee asked if extra protected would be provided to prevent vehicles from accidentally entering the area. Mr. Maurilio Gonzalez, owner of The Loop, replied there would be barriers installed to prevent such accidents.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

PDRB09-17
309 Atlantic Blvd.

PDRB09-17, SPECIAL EXCEPTION FOR OUTDOOR DINING AT 309 ATLANTIC BOULEVARD, ATOMIC FLYING FISH:

Moved by Lee, seconded by Pardee.

Motion: **TO APPROVE PDRB09-17 WITH THE SPECIAL EXCEPTION RULES.**

Vice Mayor Weldon voiced concern regarding there being more seating outside than there would be inside. He added outdoor dining was usually approved on the basis of the interior space being able to support the business. Mr. Gerard Vermay, architect for the restaurant, explained the restaurant was mostly take-out.

Councilor Lee was concerned about the sale of alcohol on the premises.

City Manager Jarboe suggested deferring approval until the owner was able to address the concerns of the Council.

City Attorney White asked Councilor Lee to withdraw his motion. Councilor Lee withdrew his motion.

City Clerk Volpe stated the item could be placed on the special meeting before the November 16, 2009 workshop meeting.

Consensus: **TO DEFER UNTIL NOVEMBER 16, 2009.**

Vice Mayor

Mayor Pruetto stated Vice Mayor Weldon resigned as Vice Mayor and Council needed to elect a new Vice Mayor.

City Attorney White stated Council had to vote for someone to fill the position.

Mayor Pruetto asked Vice Mayor Weldon if he had any comments. Vice Mayor Weldon stated he has enjoyed being Vice Mayor and appreciated the honor. Mayor Pruetto opened the floor for nominations.

Vice Mayor Weldon nominated Councilor Fred Lee.

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

OPEN DISCUSSION

Adjournment

There being no further business, the meeting adjourned at 7:00 p.m.

Harriet Pruetto, Mayor

ATTEST:

Lisa Volpe, CMC, City Clerk

Approved: