



MINUTES
WORKSHOP CITY COUNCIL MEETING
NOVEMBER 16, 2009, AT 6:15 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 November 16, 2009 at 6:15 p.m., in the Council Chambers, City Hall, 116 First Street, Neptune Beach, Florida.

Attendance:

IN ATTENDANCE:

STAFF:

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

Community Development Director Amanda Askew
Senior Activity Center Director Leslie Lyne
Director of Public Safety David Sembach
Director of Public Services Leon Smith

ABSENT:

City Attorney Chris White

Call to Order/Roll
Call

Mayor Pruette called the meeting to order at 6:15 p.m.

PRESENTATIONS / NONE

CITY MANAGER'S ACTION LIST

City Manager Jarboe reported on the following:

- Mediation is currently in process between the Environmental Protection Agency and the St. Johns River Keeper regarding a requirement to decrease the nitrogen levels to as low as 1.7. The current required level is 5.7 and our sewer plant renovations were designed to maintain a nitrogen level of 3.2. If the 1.7 requirement passes this could double or triple the water and sewer rates for residents of Neptune Beach.

Mayor Pruette asked City Manager Jarboe if the City should postpone the upcoming Water and Sewer Rate Study until the mediation was settled. City Manager Jarboe responded the Water and Sewer Rate Study could not be conducted until the Audit was complete later in the year and he would have more information at that time.

PUBLIC COMMENTS

Ann Von Thron, 1012 Oceanfront, supported extending the permitted parking hours on First Street.

Sybil Ansbacher, 2008 Strand Street, favored the super majority vote on Ordinance 2009-13.

Vita Hope, 324 Driftwood Road, supported the super majority vote on Ordinance 2009-13.

Kerry Chin, 227-A Margaret Street, favored the spirit of Ordinance 2009-13. But opposed abandoning of public property for the sole benefit of a private person or cooperation. He supported the Ordinance with the super majority vote requirement.

Chris Chin, 227-A Margaret Street, supported Ordinance No. 2009-13 with the super majority vote requirement included.

PROPOSED ORDINANCES

Ord. No. 2009-13

ORDINANCE NO. 2009-13, CHAPTER 18, ABANDONING OR PRIVATE USE OF PUBLIC PROPERTY: 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.

Vice Mayor Lee stated he was concerned about the "super majority vote" because future Council's could easily change the Ordinance. He felt the "super majority vote" reversed the voting criteria because instead of needed three votes to adopt an Ordinance it would take only two votes to deny an Ordinance.

Councilor Pardee agreed with Vice Mayor Lee on the "super majority vote" language.

Councilor Tucker agreed with Vice Mayor Lee and Councilor Pardee.

Councilor Weldon felt "super majority votes" should be limited to specific issues. Currently the State mandates a super majority vote on budgetary issues and he felt because public property also has monetary value therefore a super majority vote was appropriate. In an effort to ease concerns of other Council members he suggested adding language "that it would take a "super majority vote" to reserve the ordinance".

Mayor Pruette requested the following paragraph in Section 18-5 to be reinserted: This section shall not apply to the leasing of public property or rights-of-way, nor to approvals by the City Manager of residential driveway access to public streets.

Councilor Weldon felt the "super majority vote" was important because members of Council could be strongly influenced by well meaning members of the public.

Vice Mayor Lee agreed to reinsert the "super majority vote" requirement in an effort to move the Ordinance forward.

Councilor Pardee stated the "super majority vote" was stricken from the first read of the Ordinance. He questioned if the entire Ordinance would need to go back to first read if the language was reinserted.

City Clerk Volpe stated the Ordinance could be amended on second read and would

not need to go back to first read.

Consensus: **REINSERT ALL LANGUAGE AND FORWARD TO SECOND READ AS AMENDED.**

City Manager Jarboe they would have to vote on the amendment to undelete at the regular meeting before voting for the second read.

Chapter 6
Animals

CHAPTER 6, ANIMALS: City Manager Jarboe explained an Animal Ordinance Committee was created to recommend amendments to the animal ordinance. The recommendations have been reviewed by the staff and were now before the Council. He felt some of the proposed changes did not apply to our small city due to the size of our staff and the cost.

City Manager Jarboe recommended deleting the following proposed changes:

Section 6-13, definition of Potentially Dangerous Dogs. He felt it was too subjective, open to interpretation, hard to enforce and would not hold up in court.

Section 6-3, Licensing Required for Dogs and Cats. He stated the City stopped licensing dogs and cats and depended on the rabies tag to make sure they were licensed. He added only 10 to 15% of owners actually registered their animals. It also required a lot of staff time and only brought in \$1,500 per year.

City Manager Jarboe recommended reinserting the following proposed change.

The defendant may exercise their option on a penalty by paying a specific fine at the Public Safety Department within 10 days before having to appear in court.

He felt the remainder of the recommended proposed changes presented by the Animal Ordinance Committee should be considered.

Councilor Weldon stated the committee also recommended the Council appoint an Animal Board to oversee and enforce the Ordinance. City Manager Jarboe responded he also recommended deleting that proposed change.

Councilor Weldon agreed the city should not reinstate the licensing requirement. The city did not have the staff or financial resources to support an Animal Board. He suggested the City Attorney rewrite the definition of Potential Dangerous Dogs so that it would be less open to interpretation and hold up in Court.

Councilor Tucker stated she supported the changes as recommended by the City Manager and the Animal Ordinance committee. She also felt all three beach cities should have similar animal ordinances.

Councilor Pardee agreed with the proposed changes by the committee and the City Manager. He asked City Manager Jarboe to review the changes with the City Attorney and the Board once more and prepare a clean copy with the proposed changes for the Council.

Vice Mayor Lee stated the issue of the dog committee began over an aggressive dog. He agreed with Councilor Weldon's suggestion to have the City Attorney revise the language of the Potentially Dangerous Dog so that it would hold up in a Court.

City Manager Jarboe stated he would prepare a clean Ordinance to present to the Council for the January workshop meeting.

Councilor Weldon questioned the proposed change of hours allowing dogs on the beach. He asked a committee member to approach the podium and address the issue.

City Manager Jarboe stated it was not a task of the Animal Ordinance Committee to change the hours that dogs were allowed to be on the beach.

Mr. Hammerfer, Professional Dog Trainer, and Member of the Animal Ordinance Committee, explained the reasoning for the Potentially Dangerous Animals definition was to allow the owner the opportunity to seek training and revise the way they handled an animal before someone was hurt.

City Clerk Volpe stated the Code as follows: It is unlawful for any person who shall own, keep, harbor, or be in control of a dog to allow the dog upon the Atlantic Ocean beach in the city except during the hours of 5:00 p.m. to 9:00 a.m. during daylight savings time and 4:00 p.m. to 10:00 p.m. during eastern standard time.

Nichole Habl, Attorney, and member of the Animal Ordinance Committee, explained there was a State law definition of Potentially Dangerous Dogs and cities could not make the law less restrictive but were allowed to make the law stricter. The purpose was to recognize the potential of a dog to become aggressive and make sure the dog received training and attention before it actually became dangerous. The Potential Dangerous Dog definition has been successfully used and upheld in other cities throughout Florida.

Sandy Golding, Member of the Animal Ordinance Committee, stated their definition of Potentially Dangerous Dog was modeled after the Humane Society of the United States legislation.

Mayor Pruette asked Director of Public Safety Sembach for his opinion on the proposed changes.

Chief Sembach felt the Animal Ordinance Committee was created due to an overreaction to an isolated incident involving a dog attack. He added there has not been a report of a dog bite to a human in over a year. There will always be isolated incidents. He felt the current Ordinance was comprehensive and complete and did not require any changes.

Consensus: **CITY MANAGER JARBOE AND CITY ATTORNEY TO RESEARCH CASE LAW ON POTENTIALLY DANGEROUS DOGS PROVIDE A CLEAN COPY TO COUNCIL AND COMMITTEE MEMBERS AND FORWARD TO THE JANUARY OR FEBRUARY WORKSHOP MEETING.**

CONTRACTS / AGREEMENTS / NONE

ISSUE DEVELOPMENT

Res. No. 2009-XX **RESOLUTION NO. 2009-XX: A RESOLUTION OF THE CITY OF NEPTUNE BEACH HONORING ISH BRANT AND DECLARING A NAMESAKE PARK.**

Councilor Weldon stated he coincidentally uncovered the fact that the Ish Brant Park located behind the K-mart was never officially designated by Resolution. The Resolution was suppose to have been adopted in 1998. Due to an administrative error the Resolution was never placed on the Council agenda. Therefore he would like to

correct the error and have Council adopt the Resolution.

City Manager Jarboe stated this error was an oversight by the Council in 1998 and it was always assumed the park had been designated.

Councilor Pardee suggested exploring alternate uses for property that would benefit the city monetarily before declaring the property as a park. He also asked for staff to explore the possibility of the city reclaiming the Lemon Street right-of-way to allow vehicles access to the park.

Mayor Pruette felt it would be difficult for the city to reclaim the right-of-way. She also asked Council to consider that the property has been a park for the past ten years.

City Manager Jarboe stated if a road was provided to the park there would still not be access to the park because vehicles would have to travel through the K-mart property to access the roadway into the park.

Councilor Weldon strongly encouraged council to forward the Resolution to the Regular Council meeting and adopt the Resolution as originally intended.

City Manager Jarboe stated he would contact the three owners of the adjacent property in an effort to reclaim the right-of-way.

Consensus: **FORWARD TO THE DECEMBER REGULAR COUNCIL MEETING.**

Adjournment

There being no further business, the meeting adjourned at 7:40 pm.

Harriet Pruette, Mayor

Attest:

Lisa Volpe, CMC, City Clerk

Approved: _____