



**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**MONDAY, APRIL 1, 2019, 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 Monday, April 1, 2019, at 6:00 p.m. in the City Hall Council Chambers, 116 First Street, Neptune Beach, Florida.

Attendance	<b>IN ATTENDANCE:</b> Mayor Elaine Brown Vice Mayor Fred Jones Councilor Kerry Chin Councilor Josh Messinger Councilor Scott Wiley	<b>STAFF:</b> City Manager Andrew Hyatt Deputy City Manager Amanda Askew City Attorney Patrick Krechowski Finance Director Peter Kajokas Chief of Police Richard Pike Public Works Director Leon Smith City Clerk Catherine Ponson
Call to Order/Pledge	Mayor Brown called the meeting to order at 6:00 p.m. and Vice Mayor Jones led the Pledge of Allegiance.	

**AWARDS / PRESENTATION / RECOGNITION OF GUESTS**

Water Conservation Month	Mayor Brown presented the Water Conservation Proclamation declaring the month of April as Water Conservation Month.
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**APPROVAL OF MINUTES**

Made by Messinger, seconded by Chin.

**MOTION:**                      **TO APPROVE THE FOLLOWING MINUTES, AS AMENDED**

**February 27, 2019, Roundtable City Council Meeting**  
**March 4, 2019, Regular City Council Meeting**  
**March 18, 2019, Workshop City Council Meeting**

Roll Call Vote:

Ayes:	5—Chin, Messinger, Wiley, Jones, and Brown.
Noes:	0

**MOTION CARRIED**

**CITY MANAGER REPORT****City Manager  
Report**

City Manager Andy Hyatt reported the following:

- Easter in the Park is scheduled for Friday, April 19, 2019, at 10:00 a.m.
- The City's new website will go live on Monday, April 8, 2019. The City will also be live streaming through the website.
- Dancin' in the Streets is scheduled for Saturday, May 18, 2019.
- Mr. Hyatt gave an update on 1721 Lighty Lane.
- In the Jarboe Park Phase 1 Plan, the basketball court would be a multi-purpose basketball court.

**Police Chief  
Report**

Police Chief Richard Pike gave an update of the coyote issue in Neptune Beach. A trail cam was installed on Camellia Terrace and did not reveal any coyotes. An alligator was spotted. Chief Pike advised the Florida Wildlife Commission has been contacted.

He invited everyone to participate in the upcoming Chief's Walk scheduled for Wednesday, April 3, 2019, beginning at 6:00 p.m. The walk will start at the Public Safety Building and continue south on Second Street. He added that the Police Department would be participating in Career Day at Neptune Beach Elementary on Friday, April 5, 2019, from 8:30 a.m. until 1:30 p.m.

**COMMENTS FROM THE PUBLIC**

**Public Comment** Tim Peterson, 116 Pine Street, Neptune Beach, spoke regarding the Variance Appeal CDB V19-02, 823 First Street. He had submitted the appeal and stated that the decision of the Community Development Board (CDB) was not supported by competent substantial evidence and testimony produced at the public hearing. He added that the requirements to meet the variance were not met.

Mary Frosio, 1830 Nightfall Drive, Neptune Beach, spoke regarding the lighting ordinance. She commented that she believes in property owners' rights. However, those rights stop at the property lines. She stated that there is no proof that this lighting ordinance is targeted at one particular business, but it would affect that business. She commented that all that is needed is a deflector angled such that the lighting only goes to their property line.

Jane Park, 823 First Street, Neptune Beach, stated that, as a homeowner, she presented what she thought was prudent and good for the neighbors.

Alan Martin, 1113 First Street, Neptune Beach, spoke regarding water conservation. He requested the City include the times that watering is allowed in the water bills. He also stated that the fence installed at 1109 First Street extends past the stop sign.

**CONSENT AGENDA****Beaches Green  
Market License  
Agreement**

Beaches Green Market License Agreement

**Jarboe Park  
Phase 1  
Engineering  
Plan**

Jarboe Park Phase 1 Engineering Plan

Resolution No.  
2019-04,  
Penman Road  
Improvements

Resolution No. 2019-04, A Resolution of the Cities of Atlantic Beach, Jacksonville Beach, and Neptune Beach Requesting Improvements to Penman Road to Address Pedestrian and Bicyclist Safety, Vehicle Turning Movements at Vehicle/Pedestrian Conflict Points, Drainage and Aesthetics

Made by Messinger, seconded by Jones

**MOTION: TO APPROVE THE CONSENT AGENDA**

Roll Call Vote:

Ayes: 5—Messinger, Wiley, Chin, Jones, and Brown.  
Noes: 0

**MOTION CARRIED**

**VARIANCES / SPECIAL EXCEPTION / DEVELOPMENT ORDERS**

Variance  
Appeal, CDB  
V19-02

Variance Appeal, CDB V19-02, 823 First Street. City Attorney Patrick Krechowski reminded the Council that this is a decision of the Community Development Board (CDB) that has been elevated by appeal. The Council is sitting in an appellate capacity and is bound by the record that has been presented. The Council cannot consider new evidence. They have three choices, which is to agree with, reject or modify the decision of the CDB.

Deputy City Manager Amanda Askew explained that in January 2019, the CDB heard an application for a variance at 823 First Street. The variance was, at that time, to reduce the front yard for a front porch and reduce the rear yard for a second story balcony and to add a rooftop enclosed area on a flat roof. The CDB asked the applicant to come back with another design. The revised application, submitted in February 2019, deleted the second story balcony on the east side and still requested the front porch on the front side on First Street and included the rooftop attic/storage area.

On February 13, 2019, the CDB voted to approve the setback variance for the front porch on First Street side and did not approve the increase in the floor area ratio, which would not allow the rooftop attic/storage area.

Councilor Chin questioned if City staff had informed the applicant of the allowed four-foot balcony without the need for a variance. He also added that there is no mention of a hardship.

Ms. Askew answered that the front and rear yard are existing nonconformities, so the balcony would not be allowed.

Councilor Messinger questioned where in the Code does it state that existing nonconformities cannot be enlarged.

Ms. Askew answered it is in Section 27-701 of the Code of Ordinances.

Mr. Krechowski confirmed Vice Mayor Jones' inquiry that the Council's role is to either uphold, deny or modify the CDB's decision and it is before the Council as there is a third party that has appealed the approval of Variance 19-02.

Vice Mayor Jones stated he had concerns regarding the hardship.

Councilor Wiley disclosed he had ex parte communications with the realtor, Rosemary Naughton, and Debbie Peterson, who submitted the appeal.

Councilor Wiley commented he too had concerns regarding the hardship. He added the lot was nonconforming and had been for some time.

Councilor Chin questioned what the motion would be. Mr. Krechowski clarified that the appeal is the mechanism and to focus the motion on the variance, which would be to approve, modify or deny.

Councilor Messinger asked if the variance was denied, would that prevent the applicant from coming back to the CDB. Mr. Krechowski explained that the applicant could do nothing, resubmit a modified application or appeal the Council's decision. The applicant would be charged another application fee.

Mayor Brown stated she wanted to be sure that the motion is made correctly. Mr. Krechowski explained that the motion should say if the Council approves or denies the decision of the CDB.

Councilor Messinger commented that from listening to the recording and reading the minutes, his concern is the rooftop deck and the spiral staircase leading to it. He questioned if a condition could be placed on the variance that no rooftop deck is allowed.

Mr. Krechowski advised that it could be done; however, the danger in modifying the decision is the appellate body (Council) must give a reason the CDB did not address.

Councilors Chin and Messinger agreed that the applicant could revise their plan to be in line with community standards.

Vice Mayor Jones remarked that this speaks to the need to redo the Land Development Code and develop an overlay district with appropriate design standards and build-to lines versus setbacks if the City's goal is walkability. This was a fundamental recommendation of the ULI TAP panel. He added that this gives the option to come back with another plan that works.

Made by Wiley, seconded by Chin.

**MOTION:**                    **TO DENY CDB V19-02 GRANTED BY THE CDB**

Roll Call Vote:

Ayes:                    5—Wiley, Chin, Messinger, Jones, and Brown.  
Noes:                    0

**MOTION CARRIED**

**ORDINANCES**

Ordinance No.  
2019-02,  
Nuisance  
Lighting

Ordinance No. 2019-02, Chapter 28, Nuisances, Article III, Sections 28-11—28-15, Second Read and Public Hearing. An Ordinance Amending Chapter 28, Nuisances, of the Code of Ordinances of the City of Neptune Beach, by adding a new Article III, Nuisance Lighting, Sections 28-11—28-15; and Providing an Effective Date.

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

Councilor Wiley remarked that this issue should be simple. He stated that he does not think that the City should not engage in a lighting ordinance. He expressed that it is vague, it affects everyone, including residential and commercial, and there is no grandfather clause. It would be difficult to enforce. He added that he saw no reason to support this ordinance on the second and final read and make it law.

Vice Mayor Jones stated that this is a fundamental basis of zoning regulation. He added there would be elements of specificity that would come up as the process begins. This is a good start, and there should be a modicum of uniformity. He continued that it comes down to quality of life and aesthetics.

Councilor Messinger agreed with Vice Mayor Jones regarding quality of life and added there is a boom in construction all over the beaches and having a lighting ordinance would be helpful. Coastal communities and cities throughout Florida that have lighting ordinances have higher property values, and the businesses excel. He stated that this would only affect those that are significantly trespassing on their neighbors. He concluded that the City is moving in the right direction.

Councilor Chin stated that the City is facing development that the City needs to have a hand in controlling the lighting. He also commented that this would give the Police Department tools to help manage the quality of life.

Mayor Brown stated the City is looking at the future and what could come about in the Beaches Town Center and in the City. She expressed this is the time and the place for these regulations.

Made by Jones, seconded by Messinger.

**MOTION:** **TO ADOPT ORDINANCE NO. 2019-02 ON SECOND READ**

Roll Call Vote:

Ayes: 4—Chin, Messinger, Jones, and Brown

Noes: 1—Wiley

**MOTION CARRIED**

**OLD BUSINESS**

Resolution No,  
2019-05,  
Parking  
Equipment  
Purchase

Resolution No. 2019-05, A Resolution of the City Council of the City of Neptune Beach, Florida, Authorizing the City Manager to Purchase Parking Equipment and Software Totaling \$180,058.

Mayor Brown explained that this resolution authorizes the City Manager to purchase parking equipment and software totaling \$180,058.

Councilor Chin stated that he had concerns earlier regarding residential creep and what mechanism would be in place to help control that problem. City staff had informed him that the Police Chief could begin enforcing that by establishing rules and marking off areas for residents only.

Councilor Messinger commented that this purchase is integral to moving forward with the parking program. He also stated that Mark Rimmer, the parking consultant, has been responsive to residents. He indicated that there is a plan in place to start moving employee parking out of the lot that abuts the homes on Cherry Street and to increase screening. He looks forward to seeing the details of the enterprise funds and enforcement. He commended Mr. Hyatt, Mr. Rimmer and Police Chief Pike for their efforts.

Vice Mayor Jones stated he supports this resolution which puts the program in motion.

Councilor Wiley had questions regarding where the funds would be coming from and the status of the agreement with the City of Atlantic Beach.

Mr. Hyatt responded the funds were coming from the fund balance and the agreement with Atlantic Beach is in process.

Councilor Wiley stated that he is still not convinced there is enough employee parking and the private lot owners would not be participating at this time. He expressed he has not seen a full-fledged total program.

Made by Jones, seconded by Messinger.

**MOTION:**

**TO ADOPT RESOLUTION NO. 2019-05 AUTHORIZING THE CITY  
MANAGER TO PURCHASE PARKING EQUIPMENT AND  
SOFTWARE TOTALING \$180,058.00**

**Roll Call Vote:**

Ayes: 4–Messinger, Chin, Jones, and Brown  
Noes: 1–Wiley

**MOTION CARRIED**

**NEW BUSINESS / NONE**

**COUNCIL COMMENTS**

Vice Mayor Jones commended the three beaches cities for passing the resolution for Penman Road pedestrian safety.

Adjournment

There being no further business, the meeting adjourned at 7:02 p.m.

ATTEST:



Catherine Ponson, City Clerk

Approved: 5/6/19

  
Elaine Brown, Mayor