



**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**FOLLOWING SPECIAL BUDGET MEETING**  
**MONDAY, SEPTEMBER 9, 2019, 6:04 P.M.**  
**NEPTUNE BEACH 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, September 9, 2019, at 6:04 pm in the Council Chambers, City Hall 116 First Street, Neptune Beach, Florida.

**Attendance:****IN ATTENDANCE:**

Mayor Elaine Brown  
Vice Mayor Fred Jones  
Councilor Kerry Chin  
Councilor Scott Wiley  
Councilor Josh Messinger

**STAFF:**

Interim City Manager Leon Smith  
City Attorney Zachary Roth  
Director of Finance Peter Kajokas  
Police Chief Richard Pike  
Deputy Public Works Director Megan George  
Code Compliance Supervisor Piper Turner  
City Clerk Catherine Ponson

**Call to Order  
/Pledge**

Mayor Brown called the meeting to order at 6:04 p.m.

**AWARDS / PRESENTATION / RECOGNITION OF GUESTS / NONE**

**APPROVAL OF MINUTES**

**Minutes**

Made by Messinger, seconded by Wiley.

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

**August 5, 2019, Regular City Council Meeting**  
**August 19, 2019, Workshop City Council Meeting**

**Roll Call Vote:**

Ayes: 5-Chin, Wiley, Messinger, Jones, Brown  
Noes: 0

**MOTION CARRIED**

**COMMUNICATIONS AND CORRESPONDENCE**

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

Interim City Manager Smith reported the following:

- He thanked City staff and Council for their efforts during Hurricane Dorian.
- Interviews for the Community Development Director would be taking place.

**PUBLIC COMMENTS**

City Attorney Zachary Roth clarified that if someone wants to speak on items under Agenda Item 7, there will be public comment at that time.

**Public Comment**

Romaine Moore, 1511 Spindrift Circle W, Neptune Beach, spoke regarding Oakhurst Drive and the safety issues regarding that street being blocked.

Shellie Thole, 217 Oleander Street, Neptune Beach, spoke regarding lot splitting and lot width.

Ted Stein, 301 Atlantic Boulevard, Neptune Beach, commended Code Compliance Supervisor Piper Turner.

**VARIANCES / SPECIAL EXCEPTION / DEVELOPMENT ORDERS****Ex-Parte  
Communications**

Mayor Brown disclosed she had ex-parte communications on Item 7B, CDB 19-09 and Item 7C, CDB19-10 in the forms of messages and emails.

Councilor Wiley reported he had spoken with Larry Peterson on Item 7A, CDB SE 19-07. On Item 7B, CDB 19-09 he had spoken with Les Mosk. On Item 7C, CDB 19-10, he had communicated with Margaret Cornelius and Richard Allen. He also added he had spoken with John Jolly regarding Item 10A, Resolution No. 2019-08.

Vice Mayor Jones disclosed he had verbal ex-parte communications with Counsel Cyndy Trimmer on Item 7A, CDB SE 19-07. He had received email correspondence from Joan Allen regarding Item 7C, CDB 19-10.

Councilor Messinger reported he had spoken with Ted Stein and members of the public via email and telephone on Item 7A, CDB SE 19-07. He responded to emails from concerned residents on Item 7B, CDB 19-09. He added he did not have any additional communications.

Councilor Chin stated he did not have any further communications on Item 7A, CDB SE 19-07 beyond the prior meeting. For Item 7B, CDB 19-09 and Item 7C, CDB 19-10, he had received email correspondence.

Mr. Roth asked anyone appearing before Council to raise their right hand and they were sworn in.

**CDB SE19-07,  
301 Atlantic Blvd**

**CDB SE19-07**, Application for a special exception as outlined in Chapter 27, Article 3 of the Unified Land Development Code of Neptune Beach for Huron-Sophia, LLC for the property known as 301 Atlantic Blvd. (RE#172982-0000). The application is for off-site parking for a new restaurant.

Mayor Brown explained that on August 5, 2019, the motion to approve the off-street parking for CDB SE 19-07 failed for lack of a second. The Council is being asked to clarify that action.

Mr. Roth stated that the public hearing is closed and it has been requested that a formal motion to either approve or deny the request be made. The applicant, Ted Stein, confirmed that he understood that request.

Councilor Wiley remarked that at the last meeting, the City Attorney stated the request was denied for lack of a second. Mr. Roth advised that the failure of the motion was sufficient to deny it. The applicant has requested that the Council clarify the record with a formal approval or denial. He added that it would not be a reconsideration.

Made by Mayor Brown, seconded by Chin.

**MOTION:** **TO DENY CDB SE 19-07, OFF-SITE PARKING WITHIN 400 FEET FOR NEW RESTAURANT LOCATED AT 301 ATLANTIC BOULEVARD**

Roll Call Vote:

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

**MOTION CARRIED**

CDB 19-09, 214-  
216 Bowles  
Street

CDB 19-09, Application for a replat as outlined in Chapter 27, Article 3 of the Unified Land Development Code of Neptune Beach for Eugene and Lorraine Kiernan for property known as 214-216 Bowles Street, (RE# 173037-0000). The subject property is located on the north side of Bowles Street. The applicants are requesting to subdivide the property into two equal-sized lots.

Code Compliance Supervisor Piper Turner explained that currently there is a duplex at 214-216 Bowles Street. The applicant is requesting to divide the property into two equal lots, each 40.1 feet wide. The lots conform to the present Code for the R-4 zoning district and utilities are available. The lots are divided evenly along the middle. The Community Development Board approved the replat by a 4-3 vote on August 14, 2019.

The applicant, Eugene Kiernan, 223 Hopkins Street, Neptune Beach reported he had been sworn in. He stated that he purchased the property believing the property was dividable. Due to illness, he now has decided to sell the property and will close on another property once the Bowles property is sold. He added he understands the concerns of density and plumbing, however, a custom home would be built on one of the lots.

Andrea Valvodinos, 212 Bowles Street, Neptune Beach, stated she had been sworn in and lives just east of the property. She expressed her concern regarding a Heritage Oak tree in her backyard that has some overhang onto the property in question. She reported that she had consulted an arborist about the possibility of safely trimming the tree. Her other concern is the amount of fill that was placed into a split lot across from her that has created a water issue.

Mayor Brown opened the floor for public comment.

Mr. Roth swore in Tom Gibbons, 1707 Forest Avenue, Neptune Beach. Mr. Gibbon advised that the buyers of the lot have no intention of chopping down the tree. He added that they would like to trim it and enjoy the tree being there.

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

Councilor Messinger stated he is the owner of a 40-foot lot. He then stated he shared many of the concerns expressed earlier tonight. There is the cookie-cutter nature and the drainage issues from both the crumbling infrastructure and development. He remarked that it was his understanding that this is a quasi-judicial vote and not a policy vote. He requested the City Attorney explain the Council's position.

Mr. Roth explained that the Council is acting as a quasi-judicial body on a specific application and not a legislative position where they would be setting policy. He added there are opportunities, such as imposing a moratorium, on the legislative side. Now is not the time for that consideration. He continued that according to City staff, the application complies with the requirements of the Code and that is what is important for this analysis.

Councilor Messinger reported that he would be bringing the moratorium of the replatting of lots to the Land Use and Parks Committee this month.

Councilor Chin stated that this application meets the technical requirements for the platting with the 40-foot limit and the minimum square footage requirements. He added that it may not be in the spirit of what the Comprehensive Plan has outlined but it does meet the technical requirements.

Vice Mayor Jones mentioned that the opportunity to update Table 27-229-1 of the Code of Ordinances will be taking place as we go through the Code rewrite and Comprehensive Plan update. Part of this issue is to rectify inconsistencies and to make sure the Code itself articulates the vision that we have. As a quasi-judicial matter, the application has to be supported.

Councilor Wiley questioned how many lots in the City could be divided. Ms. Turner stated there were quite a few and there was a chart and she would provide that. Councilor Wiley added that the application does meet the Code.

Made by Messinger, seconded by Jones.

**MOTION:**

**TO APPROVE CDB 19-09, REPLAT OF 214-216 BOWLES STREET INTO TWO (2) LOTS.**

Roll Call Vote:

Ayes:

5-Wiley, Chin, Messinger, Jones, and Brown

Noes:

0

**MOTION CARRIED**

CDB 19-10,  
Development  
Permit

CDB 19-10, Application for development permit review as outlined in Chapter 27, Article 2 of the Unified Land Development Code of Neptune Beach for Margaret Cornelius for the property known as 0 Atlantic Blvd. (173326-0000). This property is a vacant parcel on the south side of Atlantic Blvd, adjacent to 1552 Atlantic Blvd. in the C-2 zoning district. The applicant is proposing to a new commercial building approximately 1600 square feet and parking.

Ms. Turner explained this vacant property is located where the billboard is on Atlantic Boulevard and is in the C-2 zoning district. She continued that the applicant, Margaret Cornelius, is requesting to build a 1,600-square foot office building for professionals. There would be six offices that have a common entrance and shared restrooms. The Code allows for professional offices so no variances are being requested. There is a lease in place for the billboard. The property does not have water and sewer and the applicant

would provide those at her expense. The CDB heard the application on August 14, 2019 and it was approved by a 7-0 vote.

The applicant, Margaret Cornelius, 218 Bay Street, Neptune Beach, stated she has a contract for the property. The current owner of the property is in negotiations with Clear Channel to have the billboard removed sooner. She is a contractor and will have her own office there. She has no plans to remove any trees. She wants to improve the City not take away from it.

Councilor Wiley questioned if she would still build if negotiations were not made and the billboard remain. Ms. Cornelius answered she would and had been shown how to design the building to have no impact on the billboard and keep the setbacks.

Richard Allen, 135 Saltwind Circle, Neptune Beach, stated he had been sworn in. He advised he had submitted a statement. He explained that he just wanted to ensure that Ms. Cornelius did not circumvent the process. He expressed that Neptune Beach is unique and its survival depends on saving trees. He mentioned the state legislature has now curtailed the City's authority. The applicant would have to destroy trees to install the driveway, water and sewer. Mr. Allen remarked that preserving the trees and the air is far more important than a speculative business project.

Mayor Brown opened the floor for public comment. There being no comments, the public hearing was closed.

Councilor Chin stated he does not have a particular antipathy for this project, however, he is concerned with the incomplete nature of the application. He added when he was chair of the CDB, the applications were complete and had full sets of plans. The plans would outline where the building, concrete and landscaping would be and what kind of impact it would have on the parcel. This application has a vague idea of a building and he is troubled that this could be approved without more detail.

Ms. Turner explained the application was complete and this is the layout the applicant would be locked into where the building is on the piece of property.

Councilor Messinger agreed with Councilor Chin and he understands that this application meets the technical and legal requirements that we have in place. This goes back to looking at our Comp Plan and Codes and what we require of applicants. This is another example that speaks to why moving forward with the Code rewrite and having a professional firm such as Dover, Kohl & Partners is important. He commended Ms. Cornelius on the quality of work on her projects. He expressed concern about other applications and the completeness of the requirements.

Vice Mayor Jones stated that part of the Code rewrite is a clear review process. He stated this project would be a marked improvement.

Councilor Wiley stated the City has always has been at this particular point in a development order. The application meets all of the requirements in the Code.

Mayor Brown stated that the City is in the process of looking at the Code and making changes. This application meets everything in place right now.

Mr. Roth advised that the change in the legislature Mr. Allen mentioned applies to residential property only.

Made by Messinger, seconded by Jones.

**MOTION:**                    **TO APPROVE FINAL DEVELOPMENT ORDER FOR CDB 19-10**

Roll Call Vote:

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

**MOTION CARRIED**

CDB V19-11,  
Variance

CDB V19-11. Application for variance as outlined in Chapter 27, Article 8 of the Unified Land Development Code of Neptune Beach for Meatball Enterprises, LLC and Nicole & Derek DeLoreto for the property known as 0 Poinciana Road (RE#173340-0000) This property is a vacant parcel on the south side of Poinciana Road in the C-2 zoning district that abutting 2130 Florida Blvd. The request is to vary Table 27-229-1 to both side yard setback to build a commercial building in the future.

Ms. Turner explained this is a variance for a property behind the J. Wendel Fargis Lodge on Florida Boulevard in the C-2 zoning district. The applicant is asking to build a wider building instead of a longer building. He is requesting the setbacks from 15 feet to 10 feet on each side. There are no utilities and the road is not paved. The applicant would be required to install all utilities and pay for their portion of paving the roadway adjacent to the property.

The applicant was not present.

Mayor Brown opened the floor for public comment. There being no comments, the public hearing was closed.

Made by Messinger, seconded by Wiley.

**MOTION:**                    **TO DENY CDB V19-11**

Roll Call Vote:

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

**MOTION CARRIED**

**ORDINANCES / NONE**

**OLD BUSINESS / NONE**

**NEW BUSINESS**

Res. No. 2019-08,  
Stormwater Utility  
Rate

Resolution No. 2019-08, A Resolution of the City Council of the City of Neptune Beach, Florida Establishing a Stormwater Utility Rate and Providing an Effective Date.

Councilor Chin reiterated that the City has to make changes to become more resilient in the face of coastal storm events. Hurricane Dorian should have been a wake-up call to start doing things to improve our stormwater infrastructure.

Councilor Messinger agreed with Councilor Chin and stated that this issue has been looked at extensively with City staff and Marcel Dulay with Parsons Engineering. He

expressed that the City's infrastructure is in a bad predicament and a lot of it is dated back to the 1930s. The City is still in a deficit as the rate was not increased as previously recommended by the engineers. This is comprehensive as it looks at large capital plans that the City can benefit from with neighboring FDOT projects. This is the most conservative plan before the Council to protect the City's independence. He added that when the City is assessed for insurance rates, the actuaries base that on the entire City's flooding and stormwater. He stated it makes sense and is the right thing to do for Neptune Beach.

Vice Mayor Jones stated that this boils down to making an investment and the City needs to start making necessary infrastructure investments or the City would cease to be a viable, self-sufficient City.

Councilor Wiley expressed that there are infrastructure improvements that need to be made, however going from \$8.00 to \$18.41 is going to the extreme for homeowners. He stated there are projects and maintenance that can be done. He did not see anything wrong with asking the City of Jacksonville for help with these projects. Grants should be also be looked at. Florida Boulevard is a major project that could be started on and then prioritize the projects over a period of time.

Mayor Brown stated that the City would be looking at grants that would then be applied to reducing this in the future. The City has catching up to do and this is the right direction to do that.

Councilor Messinger advised that the City has a Stormwater Utility Trust Fund for all of the fees and charges collected by the stormwater utility.

Made by Jones, seconded by Messinger.

**MOTION:** **TO ADOPT RESOLUTION NO. 2019-08**

Made by Wiley.

**AMENDED MOTION:** **TO STRIKE \$18.41 AND INSERT \$12.00 AND STRIKE \$26.59 AND INSERT \$21.00**

**AMENDED MOTION FAILED FOR LACK OF A SECOND.**

Roll Call Vote: (Original Motion)

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

Noes: 1-Wiley

**MOTION CARRIED**

Councilor Chin stated that there is always the opportunity to lower the rates should the City's financial situation improve.

Mayor Brown advised that the City would be aggressive and looking for opportunities to subsidize these projects, especially resiliency.

Councilor Wiley expressed that the rates could be rolled back. He stated that should not be the approach.

Councilor Messinger reported the City had been looking for grants for some of these stormwater improvements for four years. He agreed with Vice Mayor Jones that the City

needs to be self-sufficient and no one is making this vote with the idea that it would be rolled back.

Councilor Wiley stated that the City had received a grant for stormwater for \$375,000 and still waiting to use it.

Res. No. 2019-09, Historical Marker

Resolution No. 2019-09, A Resolution of the City Council of the City of Neptune Beach, Florida, Regarding Installation of a Historical Marker Commemorating the Girl Scouts' Beaches Little House in Jarboe Park.

Made by Messinger, seconded by Chin.

**MOTION:** **TO ADOPT RESOLUTION NO. 2019-09**

Roll Call Vote:

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

**MOTION CARRIED**

Res. No. 2019-10, CDB Members

Resolution No. 2019-10, A Resolution of the City Council of the City of Neptune Beach, Florida, Appointing Members to the Community Development Board.

Made by Chin, seconded by Wiley.

**MOTION:** **TO ADOPT RESOLUTION NO. 2019-10**

Roll Call Vote:

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

Mayor Brown thanked all of the members of the CDB for the hard work that they do.

**MOTION CARRIED**

Tax Auditing Agreement

Agreement for Use of Property Tax Collections to Fund Business Personal Property Tax Audit Services.

Made by Messinger, seconded by Wiley.

**MOTION:** **TO APPROVE THE AUDIT SERVICES AGREEMENT FOR USE OF PROPERTY TAX COLLECTIONS TO FUND BUSINESS PERSONAL PROPERTY TAX**

Roll Call Vote:

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

**MOTION CARRIED**

Paid Parking Agreement Interlocal Agreement

Interlocal Agreement for Paid Parking Program at Beaches Town Center. Mr. Roth stated that he had received a request to remove the word "key" from the third paragraph in Exhibit A of the agreement. He reported there was some rewriting to the original version as the order of events had changed. He and the Atlantic Beach City Attorney have put



together what they think is a solid, cooperative effort to roll out the program for the Cities. It contemplates hiring a parking administrator and addresses how the money would be split. It addresses the money that Neptune Beach will keep and how it would affect the budget each year and making adjustments in accordance with the ordinance. He stressed the importance of the termination clause in Section 13.

Councilor Wiley questioned if there was anything in the agreement or the ordinance that limits the parking program to the Central Business District (CBD) and inquired about the changing of fees.

Mr. Roth explained that Exhibit A of the agreement includes a map showing the locations of the parking. Exhibit A provides that is subject to change by approval of Council. The City Managers are authorized to change the fees. Mr. Roth also added that changing fees do not require approval of Council. He continued that there is a note stating that the contents of Exhibit A are subject to change based on decisions of Council.

Councilor Chin questioned how long the parking program can go into effect after both Cities adopt the agreement.

Mark Rimmer, Parking Consultant, answered that the soft rollout could begin within three days after it is signed and executed. It is on the Atlantic Beach agenda for tonight.

Made by Messinger, seconded by Jones.

**MOTION:**            **TO APPROVE THE INTERLOCAL AGREEMENT FOR PAID PARKING**

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

**MOTION CARRIED**

**COUNCIL COMMENTS**

Councilor Messinger clarified that the City did receive a grant for a little over \$300,000. That project costs \$1.049 million leaving a shortfall which would lead to further deficits. The City has been applying for the full assessment in order to complete the project.

Mr. Rimmer confirmed that the parking website, [www.northbeachsparkng.com](http://www.northbeachsparkng.com), would be updated and that the soft rollout would not have aggressive fining but would be a 30-day education process.

Adjournment

There being no further business, the meeting adjourned at 7:28 p.m.

Attest:

  
Catherine Ponson, City Clerk

  
Elaine Brown, Mayor

Approved:

10/7/19

