

**MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, FEBRUARY 6, 2023, 6:00 P.M.
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266**

Pursuant to proper notice, a Regular City Council Meeting of the City Council of the City of Neptune Beach was held on Monday, February 6, 2023, at 6:00 p.m., at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266.

Attendance:**IN ATTENDANCE:**

Mayor Elaine Brown
Vice Mayor Kerry Chin
Councilor Lauren Key
Councilor Nia Livingston
Councilor Josh Messinger

STAFF:

City Attorney Zachary Roth
Police Chief Richard Pike
Community Development Director Heather Whitmore
Senior Center Director Leslie Lyne
Grants and Resiliency Coordinator Colin Moore
Project Manager Jason Lupson
Public Works Director Jim French
Chief Financial Officer Danielle Dyer-Tyler
City Clerk Catherine Ponson

**Call to Order/Roll
Call/Pledge**

Mayor Brown called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Election of Vice**Election of Vice Mayor**

Made by Livingston, seconded by Messinger.

MOTION: TO RE-ELECT KERRY CHIN AS VICE MAYOR**Roll Call Vote:**

Ayes: 5-Key, Livingston, Messinger, Chin, and Brown
Noes: 0

MOTION CARRIED

Vice Mayor Chin commented that it has been an honor to serve as Vice Mayor for his fellow Councilors and he appreciates their trust and confidence in his continuing to serve in this role.

**IQ Fiber
Presentation**

IQ Fiber Presentation. Kim Smithers, with IQ Fiber presented information regarding the project in Neptune Beach. She stated they were founded in 2021 by Jacksonville residents. They are building a 100% fiber optic network to approximately 60,000 homes in Phase I. Fiber is the fastest and most reliable internet connection. Neptune Beach residents are requesting to connect to IQ Fiber.

Ms. Smithers explained the construction process. They have been building in Atlantic Beach and Jacksonville Beach. They have submitted permits in Neptune Beach and are waiting for approval. They have been working with the Mayor to finalize a press release and begin resident communications.

APPROVAL OF MINUTES

Minutes

Made by Messinger, seconded by Key.

MOTION: TO APPROVE THE FOLLOWING, AS AMENDED:

January 3, 2023, Regular City Council Meeting

January 17, 2023, Special City Council Meeting

January 17, 2023, Workshop City Council Meeting

Roll Call Vote:

Ayes: 5-Livingston, Messinger, Key, Chin, and Brown

Noes: 0

MOTION CARRIED

PUBLIC COMMENTS

Public Comments

Brent Rogers, 1932 Strickland Road, Neptune Beach, spoke against the senior advisors assisting in the City Manager search. He requested to search locally for a new City Manager. He spoke regarding expenditures approved by Council.

Pat Hazouri, 207 Florida Boulevard, Neptune Beach, stated that the City is not listening. She requested stopping Atlantic Beach from providing infrastructure for development.

Brian Beard, Small Business Administration, requested Council share information on disaster loans that are available. He announced there is a workshop at the Jacksonville Main Library on February 16 from 2 p.m.-4 p.m. More information can be found at: <https://disasterloanassistance.sba.gov>

Ann and Todd Stapleton, 1107 Hagler Drive, Neptune Beach, stated that half of their house is without power since January due to a stalemate between Beaches Energy and Neptune Beach Public Works. She added that she is being told Neptune Beach Public Works would not permit the work to be done.

Katie Knight, 508 Driftwood Road, Neptune Beach, spoke regarding parking and the construction nearby.

COMMUNICATIONS / CORRESPONDENCE / REPORTS

Police Chief
Report

Police Chief Richard Pike reported the DONNA Run was successful and he would be presenting an after-action report. He also presented the Florida Department of Law Enforcement Accreditation Report for the Neptune Beach Police Department and the monthly crime report.

Mayor Brown reported that Council Members had been taking turns attending the weekly City staff meetings individually. There will be an ongoing file kept on all questions and reports as they come in. Councilor Key reported she had attended a meeting and a lot had been accomplished.

VARIANCES / SPECIAL EXCEPTIONS / DEVELOPMENT ORDERS / NONE

OLD BUSINESS / NONE**ORDINANCES**

Ord. No. 2022-09, Agenda Item Documentation Ordinance No. 2022-09, Second Read and Public Hearing, An Ordinance of the City of Neptune Beach, Florida, Amending Section 2-28, Agenda; Providing for Severability; and Providing an Effective Date.

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

Made by Messinger, seconded by Livingston.

MOTION: **TO ADOPT ORDINANCE NO. 2022-09, AMENDING CODE SECTION 2-28, AGENDA**

Roll Call Vote:

Ayes: 5-Messinger, Key, Livingston, Chin, and Brown

Noes: 0

MOTION CARRIED

OLD BUSINESS

Res. No. 2023-01, City Clerk Resolution No. 2023-01, A Resolution of the City of Neptune Beach, Florida, Revoking Resolution No. 2017-01.

Councilor Messinger stated that the City Clerk is hired and administered by City Council. Prior to his being on Council and under a previous City Manager, duties were separated. This resolution returns the duties back to the way it had been done decades before.

Vice Mayor Chin reiterated that by our Charter, the City Clerk has always been a direct hire by the City Council. This is restoring it to the original intent. He is clearing up any allegations of ill intent.

Made by Key, seconded by Chin.

MOTION: **TO ADOPT RESOLUTION NO. 2023-01, REPEALING RESOLUTION NO. 2017-01 AND PLACING CITY CLERK BACK UNDER AUTHORITY OF CITY COUNCIL**

Roll Call Vote:

Ayes: 5-Key, Livingston, Messinger, Chin, and Brown

Noes: 0

MOTION CARRIED

STOP WORK ORDER MODIFICATION

Stop Work Order Modification

City Attorney Zachary Roth explained the property (540-580 Atlantic Boulevard) has a development agreement which provides a separate way of handling development on this property. It is his position that the provisions regarding the zoning of the water tank have not been approved. That resulted in the February 1, 2023, Special Council Meeting. Though there wasn't a formal plan presented, he contacted their attorney regarding a potential starting point for a resolution. The structure would be the City performing a hydraulic test to determine what's going on as to why the water flow was fine two years ago and now it is not. Then, making a commitment from what is practical from a budgeting and time standpoint to fix what we can. If by that point, the flows are restored and are sufficient and they can meet the fire

code, they connect to our water system and remove the water tank. If by that date, water flow is not restored, they commit to finding an alternative that allows them to remove the tank and meet the flows by another date.

Mr. Roth emphasized that this structured solution involves date certain. This is not going to be something that is open ended. This resolution will be recorded as an amendment to the development agreement. Given that the structure contemplates that the tank remain in place temporarily so that Publix can open, the developer asked if the stop work order could be modified, not to permit them to operate but to complete some of the underground and connection work.

The developer is requesting Council to modify the stop work order to allow them to perform a certain amount of work so when the amendment to the development agreement is passed, and the refute resolved, they are closer to opening. This would minimize the time they are down. The modification provides four tasks. One of the things he thought would be a nonstarter based on previous Council comments is filling the tank. The developer understands that the stop work order would remain in place and they are not permitted to fill the tank or otherwise operate it.

Mr. Roth pointed out the paragraph in bold on page 2 of their request that reads "this letter is not an acknowledgement or acquiescence to the legal enforceability or applicability of the SWO. TLM reserves the right to pursue all available legal remedies to contest the SWO and challenge its enforceability." He stated he had spoken with their attorney and agreed that the City reserves its right as well. He also advised that as he proposed a potential motion for Council's consideration, the approval is granted on the basis that this is a compromise of a disputed claim and not an admission of anything wrong with the stop work order. If the owner has an issue, the approval is not valid and restored back to the full work order.

Mr. Roth advised that the next step would be the owner to prepare their proposed amendment to the development agreement. We asked them to come with a plan. This would be that plan. He would present to Council at an upcoming meeting. Tonight, they are asking to have the stop work order modified.

Mr. Roth confirmed Vice Mayor Chin's statement that this is basically to allow them to continue making the necessary connections and they agree that they are not filling the tank. This is a preliminary step to allow them to proceed forward while the amendment is negotiated.

Councilor Key asked if all of the things agreed for the stop work order were in writing. Mr. Roth stated he had included the four tasks verbatim into the proposed motion. Councilor Key commented that she feels comfortable moving forward.

Councilor Livingston stated she feels comfortable moving forward and it is put very clearly this is not giving up the right to proceed with legal action. If it comes to all the work being done and there is still no agreement, that doesn't mean they can fill the tank.

Councilor Messinger commented this is moving forward and coming to an agreement with drop dead dates and a final resolution.

Made by Key, seconded by Messinger.

MOTION: **TO MODIFY THE STOP WORK ORDER IN PLACE REGARDING THE WATER TANK AT 572 ATLANTIC BOULEVARD, AS FOLLOWS:**

TO PERMIT:

(1) CONNECTING THE UNDERGROUND FIRE SUPPLY LINE TO ABOVE THE GROUND, MINUS CONNECTING IT TO THE TANK ITSELF; THIS WILL ALSO ALLOW TLM REALTY TO COMPLETE LANDSCAPING SURROUNDING THE TANK;

(2) INSTALLATION OF THE FIRE PUMP SUPPLY LINE FROM THE FIRE WATER STORAGE TANK, WHICH IS AN ABOVE-GROUND LINE;

(3) INSTALLATION OF THE PROPOSED TANK/PUMP BY-PASS LINE BETWEEN THE FIRE TANK SUPPLY LINE AND THE MAIN FIRE LINE THAT FEEDS BOTH PUBLIX AS WELL AS THE RETAIL SPACES INCLUDING BYPASS VALVES, PENDING APPROVAL OF THE PLAN REVISION, ALLOWING FOR FINAL CONNECTION TO BEALLS OUTLET UTILIZING THE EXISTING WATER SERVICE THAT IS CURRENTLY CONNECTED; AND

(4) COMPLETION OF THE INSTALLATION, CONNECTION AND WIRING OF THE FIRE PUMP AND FIRE PUMP HOUSE STRUCTURE AND FINISHES.
SUBJECT TO THE FOLLOWING:

1. THE TANK MAY NOT BE FILLED OR OTHERWISE OPERATED;
2. THIS APPROVAL IS GIVEN AS A COMPROMISE OF A DISPUTED CLAIM AND IS NOT INTENDED TO WAIVE ANY RIGHTS OF THE CITY REGARDING THESE MATTERS. IF THE PROPERTY OWNER DOES NOT AGREE AS TO THAT POINT, THEN THIS APPROVAL SHALL NOT BE VALID AND THE STOP WORK ORDER SHALL REMAIN IN PLACE UNMODIFIED.

Roll Call Vote:

Ayes: 5-Livingston, Messinger, Chin, Key, and Brown

Noes: 0

MOTION CARRIED**NEW BUSINESS**

Res. No. 2023-02,
CDB Members

Resolution No. 2023-02, A Resolution Appointing Members to the Community Development Board.

Mayor Brown stated that this resolution reappoints Rhonda Charles and Anthony Mazzola as alternates and appoints Marc Boran as an alternate.

Made by Livingston, seconded by Key.

MOTION: TO ADOPT RESOLUTION NO. 2023-02, APPOINTING CDB MEMBERS

Roll Call Vote

Ayes: 5-Messinger, Key, Livingston, Chin, and Brown

Noes: 0

MOTION CARRIED

Res. No. 2023-03,
PORF Board
Member

Resolution No. 2023-03, A Resolution Appointing a Fifth Member to the Police Officers' Retirement Fund Board.

Mayor Brown reported this resolution reappoints Leona Sheddan as the fifth member of the Police Officers' Retirement Board.

Made by Chin, seconded by Livingston.

MOTION: **TO ADOPT RESOLUTION NO. 2023-03, REAPPOINTING FIFTH MEMBER TO POLICE OFFICERS' RETIREMENT BOARD**

Roll Call Vote:

Ayes: 5-Key, Livingston, Messinger, Chin, and Brown

Noes: 0

MOTION CARRIED

911 Agreement

Interlocal Agreement between the City of Jacksonville and the City of Neptune Beach for 9-1-1 User Fees

Mr. Roth explained this is the annual update to the agreement based on calculating last year's figures for the City on a pro rata distribution. He pointed out that the document requires the signature of the City Manager. He recommends to strike that signature line and have the City Clerk and Mayor sign the document.

Made by Messinger, seconded by Key.

MOTION: **TO APPROVE THE INTERLOCAL AGREEMENT BETWEEN CITY OF JACKSONVILLE AND CITY OF NEPTUNE BEACH FOR DISTRIBUTION OF 911 USER FEES**

Roll Call Vote:

Ayes: 5-Livingston, Messinger, Key, Chin, and Brown

Noes: 0

MOTION CARRIED

FCCMA Senior
Advisors/City
Manager Search

ICMA/FCCMA Senior Advisors to Assist in City Manager Search.

Mayor Brown stated that the Senior Advisors would assist in the City Manager search by reviewing applicants and making recommendations. They request Council's approval for their services. Council still makes the decision.

Councilor Livingston pointed out that we could discuss other tools to do whatever we can to find quality candidates.

Mr. Roth answered Councilor Key's question that the City does not pay the senior advisors directly, but there are advertising, travel, meals, lodging costs in the process.

Councilor Key commented that we do not have the costs of current City Manager and a search firm may absorb some of those other costs.

Councilor Messinger commented that as this would not be an exclusive arrangement and we reserve the right to utilize an executive search firm.

Made by Chin, seconded by Livingston.

MOTION: **TO APPROVE THE ICMA/FCCMA SENIOR ADVISORS TO ASSIST IN THE SEARCH FOR CITY MANAGER**

Roll Call Vote:

Ayes: 5-Messinger, Key, Livingston, Chin, and Brown

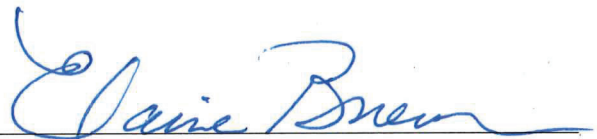
Noes: 0

COUNCIL COMMENTS

Councilor Key requested that Ms. Hazouri be sent the plans for the approved 500 Atlantic project to clear up some of the confusion

Adjournment

There being no further business, the meeting adjourned at 7:21 p.m.



Elaine Brown, Mayor

ATTEST:



Catherine Ponson, CMC
City Clerk

Approved: 03 06 2023

