



MINUTES
SPECIAL CITY COUNCIL MEETING
MONDAY, JUNE 21, 2021, 6:00 P.M.
NEPTUNE BEACH CITY HALL
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice, a Special City Council Meeting of the City Council of the City of Neptune Beach was held on Monday, June 21, 2021, 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 Fred Jones
 Councilor Kerry Chin
 Councilor Lauren Key
 Councilor Josh Messinger

STAFF:

City Manager Stefen Wynn
 City Attorney Zachary Roth
 Chief of Police Richard Pike
 Commander Michael Key
 Chief Financial Officer Carl LaFleur
 Public Works Director Jim French
 Senior Center Director Leslie Lyne
 Grant and Resiliency Coordinator Colin Moore
 Code Enforcement Officer Denzel Dehm
 Community Development Director Kristina Wright
 Code Compliance Supervisor Piper Turner

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

Mayor Brown called the Special Meeting to order at 6:00 p.m. and Councilor Chin led the Pledge of Allegiance.

**Lifesaving
Award**

Chief of Police Richard Pike presented Commander Michael Key with his third lifesaving award as a member of the Neptune Beach Police Department. The award is being presented for actions he took during a life-threatening emergency on April 26, 2020. His quick actions resulted in saving of three men who were being swept out to sea by the outgoing tide.

Mayor Brown announced that there would be public comments during this portion of the agenda and also during the public hearing portion for Agenda Item #3, Transmittal Hearing of the Comprehensive Plan.

Public Comment

David Blais, 800 1st Street, Neptune Beach, stated the Council is doing a great job and he appreciates the community input in some of the changes that have been made. He remarked that this is a 25-year plan and lots of changes are being made. He commented on Map A-1, Generalized Existing Land Uses. He mentioned that the colors lump in east of 3rd Street into a category of 8 to 19 units per acre, which is more than it can handle. Mr. Blais spoke regarding beach accesses. He read the new Section C.1.1.2 from the Housing Element section and added he hopes Council has read this thoroughly and feel comfortable with the language and that it reflects what they think citizens want.

Ord. No. 2021-03, Transmittal Public Hearing, Comprehensive Plan

Ordinance No. 2021-03, First Read and Transmittal Public Hearing. An Ordinance Of The City Of Neptune Beach, Florida Adopting The 2021-2046 Comprehensive Land Use Plan; Goals, Objectives And Policies; The Future Land Use Element; Transportation Element; Housing Element; Infrastructure Element; Coastal Management And Conservation Element; Recreation And Open Space Element; Intergovernmental Coordination Element; Capital Improvements Element; Public School Facilities Element; Establishing The Future Land Use Map Providing For Intent; Authority; Findings Of Consistency; Findings Of Fact; Severability; Recordation And An Effective Date

Mayor Brown explained that if this passes tonight, and is submitted to the State of Florida, they have 30 days to get back to the City with their comments. In addition to that, the City can be hearing from the public and working with the Community Development Director. Nothing has stopped here in Neptune Beach. When the Comp Plan comes back after 30 days, the City has six months to then get it back to the State. Mayor Brown wants everyone to understand that there is time for other changes before we have the final plan

Public Hearing

Mayor Brown opened the public hearing.

Mary Frosio, 1830 Nightfall Drive, Neptune Beach, thanked everyone in the City for all of the hard work on this massive project. They wanted an outside land use attorney, Cliff Shepard, to look at it to have another set of eyes on it. There are comments that are to be discussed tonight. It bodes well that in this entire process that the attorney only had 13 comments. She asked for clarity in the comments and which ones will be adopted or have differing opinions.

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

Made by Jones, seconded by Messinger.

MOTION: **TO APPROVE ORDINANCE NO. 2021-03 ON FIRST READ AND TRANSMITTAL PUBLIC HEARING - ADOPTING THE 2021-2046 COMPREHENSIVE LAND USE PLAN INCORPORATING THE COMMENTS AS PROVIDED BY DOVER, KOHL & PARTNERS AND NEPTUNE BEACH CITY ATTORNEY TERRELL ARLINE**

Councilor Chin stated he needed more clarification on the motion because there were two sets of suggestions. Vice Mayor Jones confirmed Councilor Chin's inquiry that if there was a conflict with Attorney Cliff Shepard's comments, Vice Mayor Jones was going with Dover, Kohl and Partners (DKP).

Councilor Messinger questioned if there is a sticking point, then there can be an amendment to the original motion. City Attorney Zachary Roth answered that it would be an amendment.

Councilor Key stated she disagreed with Vice Mayor Jones' motion and she prefers to go line by line and have a discussion for each item.

Councilor Messinger stated he had asked for clarification and they can amend each as they go down the list.

Mayor Brown stated she liked having Staff give comments on each item.

Comment #1

Since a primary goal of the resident is to keep residential out of commercially zone areas other than the Town Center (CBD), why not say that right up front?

Community Development Director Kristina Wright stated that staff concurs with this comment.

Council concurs with Comment #1.

Comment #2 *The additional explanation sentence is unnecessary. It is understood that a projection is not a guaranty of future growth.*

Ms. Wright stated staff concurs with this comment.

Councilors Chin and Key concur.

Councilor Messinger stated that he understands it is redundant. However, after speaking with the City Manager and City Attorney, he would rather be more explicit. He disagrees with this comment.

Vice Mayor Jones stated he disagrees with the comment and it is important to have that extra sentence in there.

Councilor Key remarked there was no rebuttal from Staff on this comment

Mayor Brown comments there is no harm in it and she is opposed to the comment.

Made by Messinger, seconded by Jones.

AMENDED MOTION #1: TO AGREE WITH COMMENT #1 TO PUT A STATEMENT ABOUT KEEPING RESIDENTIAL OUT OF COMMERCIAL ZONES AND ON COMMENT #2, HAVE MORE CLARITY THAN LESS AFTER CONSULTING WITH CITY ATTORNEY

Roll Call Vote:

Ayes: 3- Messinger, Jones and Brown

Noes: 2 -Key and Chin

MOTION CARRIED

Comment # 3 *The legend appears to be out of date and needs to be accurate as to the information the map is attempting to display. Inaccurate maps have resulted in costly litigation. See River Halls Development v. Citrus County.*

Ms. Wright explained that DKP, Terrell Arline and City staff are a team and worked together. The Staff/Meeting feedback is providing additional clarification based on a meeting of citizens following receipt of the comments from Cliff Shepard. The red also includes staff feedback.

Councilor Messinger agrees in the sense of what Mr. Arline and DKP said. After talking with both staff, attorneys and the community, he agrees that the map is up to date. It is a Duval County map. It is not speaking to what is happening in our Codes. We have a Future Land Use (FLUM) map that speaks to that. This is seeking to current inventory and is in a section that is defining what the tax appraiser is saying. He agrees that a footnote should be added to Map A-1, that would provide a greater degree of clarity. He would not want to remove something that may be referred to later.

Councilor Chin agreed with Councilor Messinger.

Councilor Key started with the confusion of why there is a claim of an inaccurate map. She questioned why are we using it.

Councilor Chin explained that Map A-1 is just existing conditions according to the property appraiser. It has nothing to do with what we are going to set for land use.

Vice Mayor Jones added that this is a baseline that the County uses. All it does is articulate the density and intensity as a County-wide level, just for reference.

Made by Messinger, seconded by Jones.

AMENDED MOTION #2:

**TO ADD FOOTNOTE TO MAP A-1 TO PROVIDE
GREATER CLARITY PER COMMENT #3 FROM DKP
AND TERRELL ARLINE**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Comment # 4

Walkable means that residential must be in close proximity to commercial and professional. The idea is that folks won't need to use their cars. So redevelopment of a commercial area with some residential would meet this goal. Suggest deleting this language since goal is to keep residential out of commercial areas. Instead, enhancing walkability doesn't imply that "walkable" redevelopment must/should be approved.

Vice Mayor Jones explained that walkability has everything to do with form, the distance of blocks, the architectural detailing and the fenestration on buildings. It doesn't have anything to do with whether there's residential, commercial or office. It all has to do with form. The statement that residential must be in close proximity to commercial does not meant that at all. He expressed that we rely on the perspective of DKP and Mr. Arline and delete the comment that Mr. Shepard makes.

Councilor Key stated she had conversation with staff earlier and what DKP and Mr. Arline state makes sense. She added that Vice Mayor Jones' explanation is in line with what was talked about.

Councilor Chin agrees to go along with DKP's recommendation. He stated that things that make a place more comfortable to walk, like a wider sidewalk or shade, are the things that make a something walkable and no other factor.

Councilor Messinger stated that he agreed with Vice Mayor Jones' recommendations. He also requested Vice Mayor Jones can lead the opening comments as he is a nationally recognized planner.

Made by Chin, seconded by Messinger.

AMENDED MOTION #3:

**TO ADOPT DKP'S AND TERRELL ARLINE'S ANSWERS
TO COMMENT #4 REGARDING WALKABILITY**

Roll Call Vote:

Ayes: 5- Chin, Key, Messinger, Jones and Brown.

Noes: 0

MOTION CARRIED

Comment # 5

Suggest striking this language in favor of "accommodate same" so this is not seen as a mandate for greater density where it is currently lower than "desirable." You don't necessarily want to "ensure" a particular level of density

Vice Mayor Jones stated that this is not very substantial and is not going to make a difference. He added he could go along with it.

Made by Chin, seconded by Messinger.

AMENDED MOTION #4: TO ADOPT MR. SHEPARD'S COMMENT #5

Roll Call Vote:

Ayes: 5- Key, Messinger, Chin, Jones, and Brown.

Noes: 0

MOTION CARRIED

Comment # 6

Do you really want to create more public access to the beaches in your city? Seems you already have plenty and perhaps creating more would not be best for the residents.

Vice Mayor Jones expressed that he agrees with DKP's assessment. You don't want to create the overt assumption in your Comp Plan precluding conditional access. It does not mean that because you want to make it accessible or expand opportunities for access that you are going to have big parking lots. Its expanding opportunities such as bicycle parking. You can provide more access without having more cars. He agrees with the statement about expanding opportunities for public access to the waterways, creeks and marshes.

Councilor Key stated she had met with staff and she had questions about this. It makes sense to clarify improved bicycle parking at the beach

Councilors Chin and Messinger agree with DKP and Mr. Arline's recommendations on this comment.

Made by Messinger, seconded by Key.

AMENDED MOTION #5: TO ADOPT DKP'S AND TERRELL ARLINE'S ANSWERS TO COMMENT #6 REGARDING BEACH ACCESS

Roll Call Vote:

Ayes: 5- Messinger, Chin, Key, Jones and Brown.

Noes: 0

MOTION CARRIED

Comment # 7

If residential is to be kept out of commercial zones/areas, it makes sense that commercial and mixed-use residential should likewise be kept out of residential areas.

Vice Mayor Jones agrees with DKP and Mr. Arline. He stated that we have articulated the uses under the Future Land Use Map (FLUM). We don't need to state the inverse.

Councilor Key asked the City Attorney if he feels comfortable with the language if we don't specify it.

Mr. Roth answered as long as the Land Development Code mirrors it and it is clear. A Comp Plan amendment must go through the State process.

Councilor Chin stated he had concerns due to House Bill 403 regarding home-based businesses. He thought maybe we should shore up our language against that.

Mr. Roth advised that is more likely to hurt because it would be passing something directly inconsistent with state law. We would be creating a Comp Plan that we know is inconsistent with state law.

Councilor Messinger agreed with Mr. Roth and added our FLUM clearly articulates what goes where.

Mr. Roth reported that the City cannot enforce any ordinance, regulation or policy that treats home-based businesses any different than any other business.

Mayor Brown stated she agrees with DKP and Mr. Arline's recommendations.

Made by Messinger, seconded by Jones.

AMENDED MOTION #6: **TO ADOPT DKP'S AND TERRELL ARLINE'S ANSWERS
TO COMMENT #7 REGARDING COMMERCIAL AND
MIXED-USE RESIDENTIAL**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Comment # 8

No justification for adding street/ROW area to a density calculation

Vice Mayor Jones that this is one of the most straightforward responses provided. He agrees with DKP and Mr. Arline. We need to have net and gross capabilities in our toolbox. He pointed out that, as staff articulated, it is important to reduce the ambiguity between the Comp Plan and LDC.

Councilor Key questioned if adding the right-of-way into density calculations would create more land.

Ms. Wright stated it is not something we often encounter but it is important to have that clarification.

Councilor Key asked if adding the right-of-way would increase the lot size.

Councilor Messinger explained that it won't affect single-family lots.

Councilor Chin stated the deletion looks like it is just defining what the gross acre means. It is not saying that we have to use that as a basis of calculation for any of our current development orders.

Councilor Messinger stated that this is an important revision because we currently don't have the correct definition.

Ms. Wright agreed and that in Chapter 27, we implement our standards and specific regulations and shrink it down to the size and consistency we want on the property.

Mayor Brown stated that she agreed with DKP and Mr. Arline and it is logical way to measure density.

Made by Jones, seconded by Messinger.

AMENDED MOTION #7: **TO ADOPT DKP'S AND TERRELL ARLINE'S ANSWERS
TO COMMENT #8 REGARDING DENSITY CALCULATION**

Roll Call Vote:

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

Noes: 1-Key

MOTION CARRIED

Comment # 9 *Public participation is specifically referenced in F.S. 163.3181(1), so I would use the exact language taken from the statute.*

Vice Mayor Jones commented that this is just a statement.

Councilor Messinger asked Mr. Roth what he thought. Mr. Roth answered he almost never has a problem making our documents match the language used in the statutes.

Made by Jones, seconded by Messinger.

AMENDED MOTION #8: TO ADOPT MR. SHEPARD'S COMMENT #9 TO USE LANGUAGE FROM FLORIDA STATUTES

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Comment # 10 *Mixed-use residential means there is a residential component to the mix of uses. Not trying to eliminate all mixed uses (such as office/commercial).*

Mr. Roth explained that this is adding mixed-use residential to prohibited development in commercial areas.

Made by Messinger, seconded by Key.

AMENDED MOTION #9: TO ADOPT MR. SHEPARD'S COMMENT #10 TO ADD "MIXED-USE RESIDENTIAL"

Roll Call Vote:

Ayes: 5-Chin, Messinger, Key, Jones, and Brown.

Noes: 0

MOTION CARRIED

Comment # 11 *Special exceptions for other, non-residential uses may be ok. Just need to remove any residential uses from the "special exceptions" process. This comment is for future reference when the new LDRs are drafted.*

Made by Chin, seconded by Jones.

AMENDED MOTION #10: TO ADOPT MR. SHEPARD'S COMMENT #11 SPECIAL EXCEPTIONS

Roll Call Vote:

Ayes: 5-Chin, Messinger, Key, Jones and Brown.

Noes: 0

MOTION CARRIED

Comment # 12 *Strongly suggest adding the height restriction already ingrained in the charter into this portion of the Comp Plan, perhaps as A.1.4.3.1, since the Comp Plan, rather than the charter, is considered the "constitution of land use" for a Florida local government. Language could mirror the charter.*

Vice Mayor Jones agrees with Mr. Arline's recommendation to include the height limitations, which is consistent with Mr. Shepard's comments.

Councilor Key agreed that Mr. Arline's comments should be adopted to include our height limitations.

Councilor Chin stated he has no problem including this language.

Councilor Messinger agreed with Mr. Arline's comments and added the bare minimum needed is a voter referendum.

Made by Messinger, seconded by Chin.

AMENDED MOTION #11: TO ADOPT TERRELL ARLINE'S COMMENTS TO INCLUDE HEIGHT LIMITATIONS RESPONSE TO COMMENT #12

Roll Call Vote:

Ayes: 5-Chin, Messinger, Key, Jones, and Brown.

Noes: 0

MOTION CARRIED

Comment #13

Trying to ensure the provision of housing for all residents does not supersede the mandate not to locate such housing in commercial areas other than the Town Center.

Mr. Roth explained that Mr. Shepard is adding a sentence that reads: "Nothing within this element shall require the City to allow development that is inconsistent with the objectives and policies described within the Future Land Use element."

Made by Messinger, seconded by Chin.

AMENDED MOTION #12: TO ADOPT CLIFF SHEPARD'S COMMENTS #13, HOUSING

Roll Call Vote:

Ayes: 5-Chin, Messinger, Key, Jones, and Brown.

Noes: 0

MOTION CARRIED

Councilor Key pointed out that on page A-2 of the Comp Plan, the Census increase from 2010 and 2020 in Jacksonville Beach should be 9.5% not 95% as stated in Table A-1. She questioned the reasoning for placing Table A-2, Population Growth Estimates on the same page.

Ms. Wright stated it shows the state that we have looked at that. It also shows other entities like the St. Johns River Water Management District that we are planning for the provision of adequate resources. It's informational but also an important component.

Councilor Key questioned the Council adopting Mr. Shepard's comments, which are different than the language he provided.

Mr. Roth explained that Mr. Shepard's comments are clarifying why he made the changes. He interpreted the motion to accept the changes as he provided.

Councilor Key asked for confirmation that there was a first draft and a revised first draft of the Comp Plan and there have been no changes made.

Ms. Wright stated that there had been no changes made other than the FLUM. There will be no other changes but what has been approved tonight. Any other changes will come before Council.

Mr. Roth advised that no substantive changes, such as changing 95% to 9.5%, do not require a vote.

**ORIGINAL MOTION
AS AMENDED:**

**TO TRANSMIT AS PROVIDED, THE FOLLOWING
CHANGES: ACCEPT CLIFF SHEPARD'S COMMENTS
1, 5, 9, 10, 12 AND 13; REJECT CLIFF SHEPARD'S
COMMENT# 2; APPROVE DOVER, KOHL &
PARTNERS AND TERRELL ARLINE'S COMMENTS
3,4,6,7 AND 8 AND TO MAKE THOSE CHANGES**

Roll Call Vote:

Ayes: 5-Chin, Messinger, Key, Jones, and Brown.

Noes: 0

MOTION CARRIED

Vision
Plan/Comp
Plan/LDC
Update

Vision Plan/Comp Plan/LDC Update. Community Development Director Kristina Wright reviewed the next steps of the process for the Comp Plan and LDC. She reported that after transmittal of the Comp Plan, the State will get back to the City in 45 days. Once we receive the comments, we have 180 days to have the adoption hearing and it takes effect 30 days after it has been adopted.

There has been a small delay with the first draft of the Land Development Code. A lot of the dates are to be determined. She reviewed the steps for the Land Development Code, including public presentation and workshops. The complete package would be submitted to the Department of Economic Opportunity.

Councilor Messinger requested a separate review by Terrell Arline completely independent of Zachary Roth. He would like to see a presentation similar to the Comp Plan with redlines and feedback. He said the additional costs incurred would be worthwhile to have two sets of eyes reviewing the document for potential issues related to litigation.

Mr. Roth stated that this is where they had anticipated the heavy lifting and he and Mr. Arline had already discussed both of them reviewing the LDC.

Councilor Key reported that she would not be attending the July 19th, 2021, meeting, as that was listed as a potential meeting date for the adoption of the Comp Plan.

Mr. Wynn clarified that comments would not be received from the State by July 19th, 2021. This was just a proposed date. This schedule was to show that Phase 3 will overlap with approvals from the State. There are some hard dates that are milestone dates to be aware of, including September 20th, 2021, a Council workshop for the first revision of the LDC Draft.

Councilor Key requested that she be included in a meeting such as the adoption of the Comprehensive Plan if not able to be at City Hall.

Senior Center
Activity
Landscaping

Approval of CONB RFQ 2021-02, Recommendation for Senior Center. Mr. Wynn stated that this was a request for qualifications. If approved tonight, then we will go into a contract negotiation. The City received two proposals. One from Gary Crumley and one from Marquis, Latimer + Halback. The selection committee is recommending Marquis, Latimer + Halback.

Councilor Chin stated he had looked at Marquis, Latimer + Halback's website and their projects show a nice sensitivity to historic context. They are artistically and culturally minded.

Made by Chin, seconded by Messinger.

MOTION:

**TO APPROVE THE SELECTION COMMITTEE RECOMMENDATION
OF MARQUIS, LATIMER + HALBACK AND BEGIN CONTRACT
NEGOTIATIONS**

Roll Call Vote:

Ayes: 5-Chin, Messinger, Key, Jones, and Brown.

Noes: 0

MOTION CARRIED

Mr. Wynn pointed out community feedback was part of the RFQ and there will be a community engagement meeting for the Senior Center.

FY2019-2020
Audit

FY 2019-2020 Audit Update. Mr. Wynn reported that the original audit report is due June 30, 2021. The City's auditor's, Purvis Gray wrote a letter dated June 17, 2021 that the audit would be delayed. A new audit report target date would be July 31, 2021, with presentation to Council at the first meeting in August.

Councilor Key asked what contributed to the field work not commencing until April 5th, 2021, as stated in the letter.

Chief Financial Officer Carl LaFleur advised that there was turnover in the CPA firm and a manager had resigned.

Mr. Wynn explained that due to COVID-19, the auditors were unable to begin field work until later in the schedule. Some work was able to be done virtually.

Councilor Key continued that the letter stated that "a number of factors contributed to the delay, including turnover in the City's finance department without the benefit of a planned transition from the previous finance director to the current finance director." She added that at the June 16th Finance Committee meeting, it was reported that the audit would be done by June 30th. She questioned how the City had no idea this delay would occur.


Mr. LaFleur explained that during the Finance Committee, an email was sent requesting the status of the audit. The auditors had all of the deliverables from the finance department. They review the work and give comments. Mr. LaFleur reported that their response advised him of the turnover in their office.

Mr. Wynn advised he had spoken with the auditors a week before the Finance Committee and they made no mention of the turnover.

Councilor Messinger stated that regardless of the City's issues internally, if the auditor's have known a manager left, they should be responsible. He suggested for next year's audit turning it over to another company as we have become comfortable with the current auditor.

Adjournment

The Special Meeting adjourned at 7:39 p.m.



Elaine Brown, Mayor

Attest:



Catherine Ponson, CMC
City Clerk

Approved: 07-19-2021

