



MINUTES
SPECIAL CITY COUNCIL MEETING
THURSDAY, MARCH 23, 2023, 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 Thursday, March 23, 2023, at 6:00 p.m., at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266.

Attendance:	<p>IN ATTENDANCE:</p> <p>Mayor Elaine Brown Vice Mayor Kerry Chin Councilor Lauren Key Councilor Nia Livingston Councilor Josh Messinger (<i>absent</i>)</p>	<p>STAFF:</p> <p>City Attorney Zachary Roth(via Zoom) Interim City Manager Richard Pike Public Works Director Deryle Calhoun Deputy Public Works Director Colin Moore Interim Police Chief Michael Key Community Development Director Heather Whitmore City Clerk Catherine Ponson</p>
Call to Order/Roll Call	<p>Mayor Brown called the Special Meeting to order at 6:00 p.m. and led the Pledge of Allegiance.</p>	
First Public Hearing, Dev. Agreement Amendment	<p><u>FIRST OF TWO PUBLIC HEARINGS - First Amendment to Development Agreement between the City of Neptune Beach, Florida and Neptune Beach, FL Realty LLC entered into on March 1, 2021</u></p> <p>Mayor Brown explained this is the first of two required hearings. The public hearing will only be on the subject of the meeting which is the Development Agreement Amendment.</p> <p>Public Hearing Mayor Brown opened the first public hearing on the Development Agreement Amendment.</p> <p>John Cicchino, 629 Cherry Street, Neptune Beach, stated he appreciated the due diligence work that has been completed regarding the options to adequately supply fire suppression requirement for the new Publix. He requested Council take the option of using the readily available water offered by Atlantic Beach and begin the process of removing the industrial tank.</p> <p>Chuck McCue, 1908 3rd Street, Neptune Beach, stated the documents for the hiding of the tank, are sufficient. He stated he is speaking for 98-99% of the people of Neptune Beach. He added that we need to fix the infrastructure. That's the number one priority we need to concentrate on. He commended the Neptune Beach Police Department on a job well done during a recent incident.</p> <p>Mayor Brown closed the public hearing.</p>	

City Attorney Zach Roth explained that at the last meeting there had been discussion of performing a hydraulic study and then performing certain improvements for a period of one year, and if that doesn't work, connecting to Atlantic Beach. Jacksonville Electric Authority (JEA) had completed the hydraulic study at no cost to the City. They found there are no solutions to put in place for the next year that would bring the water flows back. This simplifies the amendment to the Development Agreement. It states that within six months of when 500 Atlantic or Atlantic Beach brings that pipe over, it must be connected to and remove the tank.

Mr. Roth clarified that 500 Atlantic or Atlantic Beach or the developer is making separate arrangements to bring water across Atlantic Boulevard. This amendment is a commitment to tying into what is being brought across Atlantic Boulevard. The City, under this arrangement, is committing to paying up to \$60,000 just for that connection. The City would have no maintenance responsibility.

Mr. Roth pointed out that there is a provision that if the extension is not completed in 12 months, then the developer and the City will work together to find a resolution. He added that he does not like a provision that is that open-ended. Unfortunately, the City does not know why it would not be completed. It is very difficult to put something in that is more specific. It is still a duty to cooperate.

Mr. Roth remarked that the vegetative buffer is unaltered from the last version. He added that it is a new buffer requirement in the Development Agreement. The vegetation would remain even after the tank is removed.

Mr. Roth concluded that what is being asked of Council is to pass on the first read, move to a second read an agreement where the City commits to pay up to \$60,000 to connect to the water pipe brought across from Atlantic Beach and the tank be removed.

Vice Mayor Chin clarified, from confusion evidenced from emails, that this agreement is solely for 572 Atlantic Boulevard and has nothing to do with 500 Atlantic. This is just for fire suppression.

Vice Mayor Chin remarked that Neptune Beach does not know how Atlantic Beach would bring the water source across.

Mr. Roth commented that there have been discussions of bringing it over in two locations, one by McDonald's and one closer to Seminole Road. He also pointed out that developer would pay dollar for dollar for the connection.

Vice Mayor Chin stated that it seems Neptune Beach is limited by the capacity of the City water tank.

Public Works Director Deryle Calhoun remarked that JEA built the model and would anticipate just over 700,000 gallons per minute at a hydrant and the developer's engineer has 471,000 gallons per minute. The discrepancy had been pointed out and is being looked at by the engineer.

Councilor Key questioned how long would it take to make the connection. Mr. Calhoun stated explained it has to go through permitting and get a contractor. He does not know for a fact the timeframe.

Councilor Key asked if we have written explicit permission that Atlantic Beach is willing to connect from their system.

Mr. Calhoun stated he does not have anything in writing but he has spoken with Atlantic Beach City Engineer Steve Swann who has expressed interest in the connection.

Mr. Roth commented that there are conceptual designs put it place to show the connections.

Councilor Key expressed that she wants to make sure we don't go through this process and Atlantic Beach not want to make the connection. It is important to have an agreement. The Cherry Street neighbors are concerned with not filling the tank. She is hearing that they have to fill the tank to open while this is figured out.

Mr. Roth reported that for Publix to open, the tank has to be full to have the fire suppression requirement.

Councilor Key asked if there was a cost for lowering the tank and is that a possibility.

Andrew Greene, Neptune Beach, FL Realty LLC, answered that that he understood that the neighbors want the tank gone. There is not a practical path to lower the tank.

Councilor Key stated she asks because of the discrepancy in what the developer's engineer and what other engineers are saying the size of the tank should be.

Mr. Roth pointed out that as currently drafted, the development agreement amendment includes a return of the escrow money that is being held to ensure completion. He suggested that we ensure that it is complied with the agreement before we finalize and agree to release the escrow.

Councilor Livingston stated that she would like to see something more in-depth as far as a plan and timeline about Atlantic Beach before the second read. She also would like to see something more formal regarding filling the tank.

Mr. Roth advised that based on Council's decision on the agreement, his recommendation would be to modify the stop work order to permit filling of the tank subject to certain conditions.

Mayor Brown commented that there has not been anything formally asked of Atlantic Beach.

Councilor Key expressed that she would feel more comfortable moving forward if there was something in writing that Atlantic Beach agreed to the connection for 572 Atlantic. She added that there was confusion between the 500 and 572 Atlantic. We are discussing 572 Atlantic.

Vice Mayor Chin remarked that Council would like to have some letter or official assurance from Atlantic Beach that they are interested in moving forward. He asked if Atlantic Beach is waiting on communication from Neptune Beach. He added that the City of Neptune Beach needs to generate official communication.

Mayor Brown conveyed that the communication should be drafted, in writing, saying what we need. We also need to know what the process is after that.

Mr. Roth clarified that the first read of this agreement is tonight. It has to be published again for seven days and then there would be a second read. The earliest the notice could be published is Monday, March 27, for the second read at the April 3 Regular Council meeting. There is time to get that confirmation from Atlantic Beach.

Councilor Livingston stated she is comfortable moving forward with the first read understanding what has been discussed and answers that Council wants.

Councilor Key clarified that this first read is moving forward with the process. Council has the opportunity to stop the process should items not be finished.

Made by Livingston, seconded by Chin

MOTION: **TO MOVE THE DEVELOPMENT AGREEMENT AMENDMENT FORWARD TO A SECOND READ**

Roll Call Vote:

Ayes: 4-Key, Livingston, Chin, and Brown

Noes: 0

Absent: Messinger

MOTION CARRIED

Stop Work Order Stop Work Order. Mr. Roth reported that the status of the stop work order is that it has been amended to permit all work up to putting water into the tank. The developer cannot fill the tank or use the tank. They are asking for further modification to permit them to fill the tank halfway with conditions.

Mr. Roth informed Council that these conditions were volunteered to be placed by the developer.

Councilor Key asked what unfilling the tank would look like.

Mr. Greene reported there is a release valve as part of the pump mechanism. The water would drain toward the rear swale. They are putting landscaping in the back at this time and emptying the tank would be done in a way that would not cause erosion.

Councilor Key requested a five-minute recess to speak with the Cherry Street residents present before voting on the modification to the stop work order.

Mayor Brown announced a five-minute recess at 6:50 p.m.

Mayor Brown resumed the meeting at 6:55 p.m.

Councilor Key reported that some of the residents have reservations but the majority feel comfortable with the stop work order modifications.

Made by Key, seconded by Livingston.

MOTION: **TO APPROVE MODIFYING THE STOP WORK ORDER TO PERMIT THE TANK TO BE FILLED HALFWAY, UNDER THE FOLLOWING CONDITIONS:**

1. PAY FOR A FULL TANK FILL UP FRONT, EVEN THOUGH THE TANK WILL BE FILLED HALFWAY;
2. IF THE DEVELOPMENT AGREEMENT AMENDMENT IS NOT PASSED ON THE SECOND READ, THE TANK WILL BE EMPTIED, WITH SUCH EMPTYING TO OCCUR IN A MANNER THAT DOES NOT CAUSE EROSION OR OTHER DAMAGE TO THE ADJACENT PROPERTIES AND OWNER BEING RESPONSIBLE FOR ANY SUCH DAMAGE AND WITH CITY REPRESENTATIVES PRESENT AND NO REFUND OF WHAT WAS PAID TO FILL THE TANK;
3. IF THE DEVELOPMENT AGREEMENT AMENDMENT IS SUBSEQUENTLY APPROVED AND THE TANK IS ALLOWED TO BE FILLED, PAYMENT TO FILL THE TANK WOULD BE MADE AGAIN.

Roll Call Vote:

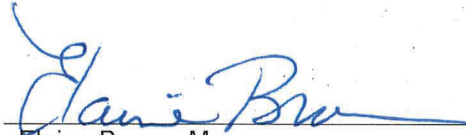
Ayes: 4-Livingston, Key, Chin, and Brown

Noes: 0

Absent: Messinger


MOTION CARRIED

Adjournment There being no further business, the Special Meeting adjourned at 6:57 p.m.



Elaine Brown, Mayor

ATTEST:



Catherine Ponson, CMC
City Clerk

Approved: 04/03/2023

