



MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, AUGUST 7, 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, August 7, 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 Manager Richard Pike
City Attorney Zachary Roth (via CMT)
Police Chief Michael Key
Senior Center Director Leslie Lyne
Community Development Director Heather Whitmore
Public Works Director Deryle Calhoun
Parks and Sustainability Director Colin Moore
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.

Brittany
Norris, COJ
Mayor's Office

Brittany Norris, Director of Intergovernmental Affairs with the Office of City of Jacksonville Mayor Donna Deegan, greeted everyone from Mayor Deegan's administration. She stated her role is to build a relationship with the Beaches Communities and be a door to the administration.

Confirmation of
Chief of Police

Confirmation of Chief of Police. Mayor Brown announced that City Manager Richard Pike has recommended Commander Michael J. Key, Jr., who had been acting as Interim Chief of Police, as the new Chief of Police.

City Manager Richard Pike stated he and Commander Key had worked together for a long time before he had become Chief of Police. He is dedicated to the City and the Department. Commander Key has been on the forefront of everything the department has accomplished.

Councilor Key stated she would be recusing herself from voting on this item as Commander Key is her husband. Pursuant to F.S. Section 112.3143, Form 8B has been submitted and has been incorporated as a part of these minutes.

Made by Messinger, seconded by Livingston.

MOTION:

TO ACCEPT THE CITY MANAGER'S RECOMMENDATION OF
CHIEF OF POLICE/DIRECTOR OF PUBLIC SAFETY, CHIEF
MICHAEL J. KEY, JR.

Roll Call Vote:

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

Noes: 0

Abstain: 1-Key

MOTION CARRIED

Newly confirmed Chief of Police Michael J. Key, Jr. stated that it is his honor to carry the torch from his mentor, Richard Pike. He expressed to Council, citizens and more importantly to the men and women of the Neptune Beach Police Department that he would always create a safe, friendly and professional organization to work for. He added that the citizens and visitors would always be kept safe.

APPROVAL OF MINUTES

Minutes

Made by Messinger, seconded by Livingston.

MOTION: TO APPROVE THE FOLLOWING:June 5, 2023, Regular City Council MeetingJune 20, 2023, Special & Workshop City Council MeetingJune 28, 2023, Special City Council MeetingJuly 17, 2023, Special & Workshop City Council MeetingJuly 19, 2023, Emergency City Council MeetingJuly 26, 2023, Special City Council Meeting

Roll Call Vote:

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

Noes: 0

MOTION CARRIED**PUBLIC COMMENTS**

Public Comments

Miriam Cinotti, 1031 Marvone Lane, Neptune Beach, spoke regarding removing the Senior Activity Center 501(c)(3) and the Penman Road project.

Shellie Thole, 124 Margaret Street, Neptune Beach, questioned where the money is going that is coming in. She also asked why impact fees had not been implemented or why a bed tax was not in place. She requested to think outside the box and not raise taxes.

CITY MANAGER REPORT

City Manager Report

City Manager Pike reported that department heads and staff were doing great job. He added that department heads would be giving updates.

Finance Dept

Chief Financial Officer Jaime Hernandez reported that the first round of department head meetings had been held for the FY24 budget. He is currently working on the General Ledger to balance out FY22-23. The FY21-22 audit is scheduled to start in September.

IT Update

IT Administrator Ryan Vogel gave an overview on updating systems, including upgrading access control, camera, and phone system in City Hall and Public Works. He added that the City is going to be expanding the network at Public Works so all departments have reliable Wi-Fi access.

Public Works

Public Works Director Derlye Calhoun gave an update of Public Works projects and introduced Senior Project Manager Ryan Shaneyfelt.

Mr. Shaneyfelt gave an update of the Senior Center landscaping project and fire suppression system.

Police Chief
Report

Chief Key reported he had distributed the July 2023 monthly incident report, which include noteworthy incidents as well as crime analysis.

VARIANCES / SPECIAL EXCEPTIONS / DEVELOPMENT ORDERS

DP 23-01, Pete's
Bar

DP23-01, Application for Final Development Order as outlined in Chapter 27, Article II, Division 2 of the Unified Land Development Code of Neptune Beach for Pierre's LLC for the properties known as Pete's Bar at 117 First Street, 120 & 110 Lemon Street (RE#172782-0000, 172783-0000 & 172784-0000).

Community Development Director Heather Whitmore reported this item was brought before the Community Development Board on July 12, 2023 and was unanimously approved. The Final Development Order requires review and approval by City Council.

Staff Presentation

Pete's is requesting a final development order approval. The existing building has previously been used for a bar and it has a current building permit for interior renovations only. The applicant must obtain an exterior remodeling building permit and Development Order. The applicant requested a historically significant parking exemption from the Community Development Board as permitted in Section 27-540 (b) of the Land Development Code to provide the additional required parking spaces. The new total number of seats including the deck requires a total of 49 parking spaces. The sites 30 spaces is 19 spaces short of the required 49 spaces. The Community Development Board may exempt, in whole or in part, any Historically Significant property from providing required parking. The Final Development Plan as presented here is consistent the Preliminary Development Plan and does not contain land uses different than those approved in the Preliminary Development Plan.

Discussion

Councilor Messinger expressed that he is not in support of approving this application. He is in support of Pete's. He commented that it states this is a request to build ground level slatted deck structure, that construction has already taken place. He thinks the improvements are great. He stated that when we looked at the Land Development Codes, one of the items was this property and other properties being able to be improved. This is why the provision for payment in lieu of was inserted so parking space designations could be purchased. Those funds could be used to improve the Town Center as a whole.

Councilor Messinger continued that he is in support of Pete's using the payment in lieu of method to get their 19-space requirement. He is not in favor of approving a request that basically waives the financial commitment. We are always looking for funding mechanisms to improve the quality of life and the parking capacity within the Town Center. There are parking spaces now that aren't properly utilized.

Ms. Whitmore confirmed Councilor Key's inquiry that staff became aware that all of the improvements had taken place without a building permit. In order for Pete's to get the building permit for the work they have done, they need to get a development order. There is a stop-work order in place. All of the exterior improvements have been completed. There are some interior improvements still to be completed. They have been deemed eligible to be recognized as historically significant and can apply for an exception.

Shahab Derazi, co-owner, stated that permit was obtained to do the bathrooms inside and updated the outside that had a previous deck and bar. He did not realize a permit was needed for the outside. He added that the historic designation puts you on the Florida Registry List and a plaque with the history could be placed on the building.

Councilor Key commented that she struggles with this as there is a parking issue and paying in lieu of parking was added to provide relief. If we can't provide relief, there would be a monetary value to it. She added she is leaning towards paying in lieu of but would like to hear from other Council Members.

Mr. Derazi stated that they would not have an issue paying for parking in lieu of. He and the partners are in support of the City.

Vice Mayor Chin remarked that it has not officially received the historical designation and it would be premature to base a decision on that. He is in agreement with his fellow Council Members regarding the payment in lieu of parking. At this point, he would like to know what the payment in lieu of would look like. He also has concerns regarding the dumpster in the right-of-way. He is not against the project, but time is needed to work that through.

Mr. Derazi requested if there was a way possible for Council to approve this and then agree on a number, which would be paid in a certain amount of time.

Councilor Livingston agreed with what has been stated and she added we do need to come up with a number. She asked if there is a way to pass this knowing we would be calculating the amount.

City Attorney Zachary Roth advised that, if the applicant was open to it, an approval with a condition could be proposed. The condition would be that upon determination of the payment in lieu amount for the 19 spaces. The development order could be revoked if the applicant does not agree to the 19 spaces.

Mr. Roth clarified that the way the Code defines "historically significant" is that if it is eligible for inclusion in the Florida Master Site File, it can be determined to be historically significant by the Community Development Board. For the purposes of today, Council should consider that it has been found historically significant by the CDB. He also added that the CDB has the right to exempt a structure from the parking requirements. The CDB does not have final say on development orders. The structure has been determined to be historically significant for purposes of this development order. Council determines whether to accept that designation and apply it to the development order or reject it and apply the development order without the designation.

Made by Key, seconded by Livingston.

MOTION: **TO APPROVE THE DEVELOPMENT ORDER WITH THE CONDITION OF PAYMENT IN LIEU OF PARKING ONCE DETERMINED AND FAILURE TO PAY WOULD RESULT IN REVOCATION OF THE DEVELOPMENT ORDER**

Roll Call Vote:

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

Noes: 1-Chin

MOTION CARRIED

ORDINANCES

Ord. No. 2023-04,
FY23 Budget
Amendment

Ordinance No. 2023-04, Second Read and Public Hearing. An Ordinance of the City of Neptune Beach Amending the Operating Budget for the City of Neptune Beach, Florida for Fiscal Year 2023, Beginning October 1, 2022, and Ending September 30, 2023.

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 Chin.

MOTION: **TO ADOPT ORDINANCE NO. 2023-04, AMENDING THE OPERATING BUDGET FOR THE CITY OF NEPTUNE BEACH, FLORIDA FOR FISCAL YEAR 2023, BEGINNING OCTOBER 1, 2022, AND ENDING SEPTEMBER 30, 2023.**

Roll Call Vote

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

Noes: 0

MOTION CARRIED

Ord. No. 2023-05, Dogs on the Beach Ordinance No. 2023-05, First Read and Public Hearing. An Ordinance of the City of Neptune Beach Amending Section 6-31, Regarding Dogs on the Beach to Establishing Consistency with Atlantic Beach; Clarifying Leash Requirements; Requiring Certain Protections for Dogs; Providing for Severability; Providing for an Effective Date.

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

Vice Mayor Chin stated he still has reservations about this. If people coming from Atlantic Beach to Neptune Beach are confused about the hours, it is a matter of education. Neptune Beach and Jacksonville Beach have different considerations, such as having more visitors. What is in place now is the best compromise at the moment. He is not in support of this at this time.

Councilor Key commented that she is not a fan of dogs on the beach, but after speaking with Anima; Services Officer Dee Zagari, she understands how this legislation would help her do her job. She added that we can always revoke this if it is not working.

Made by Livingston, seconded by Key.

MOTION: **TO APPROVE ORDINANCE NO. 2023-05, AMENDING SECTION 6-31, REGARDING DOGS ON THE BEACH TO ESTABLISHING CONSISTENCY WITH ATLANTIC BEACH; CLARIFYING LEASH REQUIREMENTS; REQUIRING CERTAIN PROTECTIONS FOR DOGS; AT FIRST READ**

Roll Call Vote:

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

Noes: 1-Chin

MOTION CARRIED

Ord. No. 2023-06, Spending Threshold Ordinance No. 2023-06, First Read and Public Hearing. An Ordinance of the City of Neptune Beach Amending Chapter 2, Article VI, Section 2-377, Competitive Bidding; Written Contracts, 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 Key.

MOTION: **TO APPROVE ORDINANCE NO. 2023-06, AMENDING CHAPTER 2, ARTICLE VI, SECTION 2-377, COMPETITIVE BIDDING; WRITTEN CONTRACTS, AT FIRST READ**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

OLD BUSINESS

City Hall Roof Bid
Award

Award City Hall Roof CONB 2023-02. Mr. Calhoun explained there were two bids received on July 14, 2023: Advanced Roofing, Inc-\$263, 411.00 (\$145,711.00 base bid plus \$117,700.00 for reinstallation of solar panels and appurtenances) and NexGen Restoration and Roofing, LLC (\$94,144.60 base bid plus \$24,000 reinstallation of solar panels and appurtenances).

Mr. Calhoun is recommending to not reinstall the solar panels. The panels on the standing seam metal roof will remain.

Made by Messinger, seconded by Key.

MOTION: **TO AWARD CONB 2023-02, CITY HALL ROOF REPAIR TO NEXGEN RESTORATION AND ROOFING, LLC IN THE AMOUNT OF \$70,144.60**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

NEW BUSINESS

Wastewater Plant
2 Improvements

Water Reclamation Facility -Bid of Wastewater Plant 2 Improvements. Mr. Calhoun reminded everyone that the City of Neptune Beach entered into a consent order with Florida Department of Environmental Protection to correct violations of its wastewater permit, primarily regarding Total Nitrogen exceedances.

CONB engaged Dewberry Engineers, Inc. in December 2021 to provide consent order support, and to provide planning, permitting, design, bid and construction phase services for Plant 2 modifications necessary to provide nitrogen removal capability. In addition, Plant 2 electrical and control panels will be moved out of the flood plain and provide for future relocation of Plant 1 equipment.

Dewberry has presented 90% plans and specifications for staff review and currently anticipate Plant 2 improvements ready for bid in August.

Made by Messinger, seconded by Chin.

MOTION: **TO APPROVE BIDDING OF WASTEWATER PLANT 2 IMPROVEMENTS**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Plant 1, Phase II, Hazen and Sawyer Water Reclamation Facility Plant 1 – Operations Study. Mr. Calhoun explained Hazen and Sawyer completed a study which reviewed historical operations data and developed an operational model of the plant (BioWin) which permits considerations of improvements.

During the study, an aeration header blew apart which led to additional operational challenges. As a result, a decision to replace the IFAS media or not will be necessary. Estimates for replacement are in the \$1M range.

This requested study would further evaluate the biological nutrient removal (BNR) process capabilities and other items as noted in the proposal.

Made by Messinger, seconded by Livingston.

MOTION: **TO APPROVE PHASE II WITH HAZEN AND SAWYER IN THE AMOUNT OF \$34,810.00**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

LDC Updates LDC Updates - Section 27-332: Home-Based Businesses. Section 27-335 and 27-336: Recreational/Commercial Vehicles in Residential Districts. Ms. Whitmore stated she is presenting this to review and make recommendations to move forward with a first read on an ordinance to enact the provisions.

Ms. Whitmore explained this adds Sections 27-335 and 27-336, which were inadvertently left out of the LDC revision. The sections state you can't have RVs or commercial vehicles in the front yard. More clarity was needed for the definition of commercial vehicles.

This will be on the September 5, 2023 agenda.

Civil Service Board Civil Service Board. Mr. Pike explained the Civil Service Board was established many years ago and has not been active since 1992. The three-member Board needs to be activated for an employee who has chosen this option for his review. Notice has been issued to employees who are not supervisors or appointed asking who would like to serve on the board. Council will select two and a third member will be elected by all employees.

Once the board is established, the board will review the facts of the grieving employee and will agree on the discipline, enhance the discipline or dismiss the discipline. We will be moving forward on this and will be coming back with a member list.

Res. No. 2023-08, Funding Sources Resolution No. 2023-08, Funding Sources. Councilor Messinger stated that Council has been discussing long-term, consistent revenue streams. There are a few mechanisms in place, such as a Community Redevelopment Agency and the percentages in the Interlocal Agreement. This resolution instructs staff and our existing lobbyist to immediately pursue in the short-term, an amendment to our Interlocal Agreement to adjust the percentages more favorably. It also instructs staff and our lobbyist to look at a CRA and pursue those activities actively. This is a direction of a high priority for our staff.

Made by Messinger, seconded by Key.

MOTION: **TO ADOPT RESOLUTION NO. 2023-08, A RESOLUTION OF THE CITY OF NEPTUNE BEACH, FLORIDA, INSTRUCTING STAFF AND LOBBYISTS TO ACTIVELY PURSUE ADDITIONAL FUNDING MECHANISMS FROM THE CITY OF JACKSONVILLE**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

COUNCIL COMMENTS

Council Comments Councilor Key commented that she wanted to address comments made earlier regarding a bed tax. She explained this is not something we can do as a municipality and is limited to the County. She is a fan of impact fees, but looking at what is required to have impact fees, the City would be at a loss. This is why we are looking at other ways to create more revenue

Vice Mayor Chin thanked Public Works for their response to a water main break in his area. They worked nonstop without a taking a break until it was repaired.

Councilor Messinger commented the County levies a bed tax that is levied by the state. A few municipalities around the state are allowed a different percentage or an additional tax specially approved by the State. We do receive a bed tax that is remediated back to us, but the percentage is fixed. The state has made it difficult for municipalities to enact impact fees.

Adjournment There being no further business, the meeting adjourned at 7:45 p.m.


Elaine Brown, Mayor

ATTEST:


Catherine Ponson, CMC
City Clerk



Approved: 09-05-2023

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Key Lauren D	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE CITY OF Neptune Beach
MAILING ADDRESS 	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY _____ COUNTY: _____	NAME OF POLITICAL SUBDIVISION: _____
DATE ON WHICH VOTE OCCURRED 8/1/2023	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Lauren Key, hereby disclose that on August 7, 20 23:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☒ inured to the special gain or loss of my relative, Michael Key;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

\$ consideration of promoting my husband

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

8/21/23
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.