



MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, OCTOBER 7, 2024, 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, October 7, 2024, at 6:00 p.m, at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266

Mayor Elaine Brown	City Manager Richard Pike
Vice Mayor Kerry Chin	City Attorney Paul Waters
Councilor Lauren Key	Chief of Police Michael Key
Councilor Nia Livingston	Chief Financial Officer Jaime Hernandez
Councilor Josh Messinger (via CMT)	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.

APPROVAL OF MINUTES

Minutes

Made by Chin, seconded by Key.

MOTION: TO APPROVE THE FOLLOWING:

September 3, 2024, Special City Council Meeting
September 3, 2024, Regular City Council Meeting
September 16, 2024, Special City Council Meeting
September 16, 2024, Workshop City Council Meeting
September 25, 2024, Emergency City Council Meeting

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

CITY MANAGER REPORT

City Manager
Report

City Manager Richard Pike gave an update on the audit and the contract between the City of Neptune Beach and Beaches Energy.

Public Works Report Public Works Director Deryle Calhoun gave an update on the Capital Improvement Projects, including public works, stormwater, and water and sewer departments.

Police Chief Comments Chief of Police Michael Key asked for everyone's prayers for the traffic fatality that occurred on Friday, October 4, 2024. He has no other information to release. He urged everyone to take pause and not rush to judgement or criticism but to approach any change with pragmatism. He has been in constant contact with the Florida Highway Patrol.

He also reported that volunteer members of the Neptune Beach Police Department were sent to Suwanee County under a mutual aid request to assist the Sheriff's Office and Live Oak Police Department after Hurricane Helene. He is confident that the City of Neptune Beach benefitted from strengthening the relationship with our partners should the City need their help. He added that the City is working nonstop on preparedness due to impending Hurricane Milton. He requested people not put themselves in a situation that puts first responders in danger trying to save you.

VARIANCES / SPECIAL EXCEPTIONS / DEVELOPMENT ORDERS

V24-04, DP24-05, 117 First Street, Pete's Bar **V24-03**, Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Pierre's LLC for the properties known as 117 First Street, 120 & 110 Lemon Street (RE# 172782-0000, 172783-0000 & 172784-0000). The applicant requests a variance from Table 27-540-1 "Off-Street Parking Requirements" to permit a reduction in the required number of new parking spaces to a serve a 152-seat bar from 19 total required parking spaces to 15 total required parking spaces. The property is in the CBD zoning district

DP24-05, Application for Development Plan Modification as outlined in Chapter 27 Article II Division 2 Section 27-81 of the Unified Land Development Code of Neptune Beach for Pierre's LLC for the properties known as 117 First Street, 120 & 110 Lemon Street (RE# 172782-0000, 172783-0000 & 172784-0000). The request is to modify the DP23-01 approval of a ground level deck structure with outdoor seating, bar and event space to reduce the seating from 117 new seats to 82 new seats. The property is in the CBD zoning district.

Staff Presentation Community Development Director Heather Whitmore explained that the variance, V24-03, would be reviewed first for the required parking and then the development order would be reviewed. The development order, DP24-05, would have conditions that could be modified. Both cases require concurrent review together.

Ms. Whitmore reported that the item was brought before the Community Development Board on September 11, 2024.

The existing building is 3,956 square feet with 70 seats located inside and on the western smoking patio. The 2023 DP23-01 development plan approval permitted a 1,700-square foot deck addition, outdoor bar, and event space with 117 new seats, bringing the site total seat count to 187 seats.

At the time of the 2023 approval, the site had five parking spaces including two handicap spaces. Section 27-540 "Parking Requirements" requires one parking space per four seats for restaurants and bars. Section 27-540 (1) permits a 50% parking reduction for uses located in CBD. The 2023 approval of 187 seats required 24 total parking spaces $((187/4) \times 50\% = 24)$. The site had five parking spaces, therefore the development approval required the addition of 19 parking spaces $(24 - 5 = 19)$. The site requires one bicycle space, and 3 are provided. The site's five parking spaces was 19 spaces short of the required 24 spaces.

Upon conditional approval of DP23-01 by the City Council, the applicant agreed to mitigate the 19-parking space deficiency with a "Payment in-lieu of providing off-street parking." LDC Section 27-541 "Payment in-lieu of providing off-street parking in the Central Business District" establishes a waiver for a portion or all of the required non-ADA off-street parking spaces through payment of a fee-in-lieu of providing required parking pursuant to section 27-540. The purpose of the "Payment in-lieu of providing off-street parking" program is to fund the capital costs associated with new, upgraded, or expanded off-street parking areas serving land uses within the Central Business District.

The applicant is returned to the Community Development Board and now City Council to request a modification to the previously approved DP23-01 to reduce the number of additional seats in the development plan from 117 to 82. Modified Development Plan DP24-05 adds 82 additional seats, including 70 seats on the outdoor deck and bar areas and another 12 in the private event space. The current proposal to add 82 seats in addition to the 70 existing will bring the overall seat count to 152. The applicant has also restriped the onsite parking area to provide seven parking spaces including two handicap spaces. The site will now have seven parking spaces, not including proposed tandem as tandem parking is not permitted in commercial districts per 27-548 (8).

Section 27-540 "Parking Requirements" requires 1 parking space per 4 seats for restaurants and bars. Section 27-540 (1) permits a 50% parking reduction for uses located in CBD. DP24-05 proposes 152 total seats, requiring 19 total parking spaces $((152/4) \times 50\% = 19)$. The site has seven parking spaces, therefore the development approval requires 12 additional parking spaces $(19 - 7 = 12)$. The site requires 1 bicycle space, and 3 are provided. The site's seven parking spaces are 12 spaces short of the required 19 spaces. The applicant will mitigate the parking space deficiency with a "Payment in-lieu of providing off-street parking."

As stated, DP24-05 includes a concurrent review of associated variance V24-03 from Table 27-540-1 "Off-Street Parking Requirements" to permit a four-parking space reduction in the required number of new parking spaces from 19 total required parking spaces to 15 total required parking spaces. With the seven spaces shown onsite, the applicant is requesting that they be required to mitigate an eight-parking space deficiency, rather than a 12-parking space deficiency.

The purpose of associated V24-03 to permit a four-parking space reduction is to account for four parking spaces in the Lemon Street right-of-way that the applicant states have been in the sole possession of Pete's Bar for decades. The "four" parking space area is shown in hatched overlay on the attached Development Plan and includes a dumpster and three parking spaces.

The applicant states that Pete's Bar has maintained and used the area since 1933. The applicant states that the spaces are used for employee parking, vendor parking and a private dumpster. The applicant states that the spaces are not a part of the metered parking program and have strictly been used by Pete's Bar.

Staff
Recommendation

Staff recommend approval of the development plan modification DP24-05 request for Pete's Bar at 117 First Street, 120 & 110 Lemon Street (RE# 172782-0000, 172783-0000 & 172784-0000). Staff recommends approval of the request to modify DP23-01 to reduce the approved new seating from 117 new seats to 82 new seats.

Staff recommends denial of V24-03 from Table 27-540-1 "Off-Street Parking Requirements" to permit a reduction in the required number of new parking spaces from 19 total parking spaces to 15 total required parking spaces.

Staff recommends approval DP24-05 with the following conditions:

- 1) The applicant shall mitigate the 12-parking space deficiency with a "Payment in-lieu of providing off-street parking.
- 2) The developer shall submit a Final Development Plan, as defined in this Code, for review by the City Council.
- 3) The applicant shall obtain a Development Order approval.
- 4) The applicant shall complete the related submitted remodeling building permit.
- 5) The applicant shall receive a certificate of occupancy for the subject building permit improvements.

Ms. Whitmore reported that the CDB voted 4-2 with one abstention to conditionally approve the variance. They permitted a two-parking space variance, not a four-parking space variance. They also voted unanimously with one abstention to conditionally approve the development order. They modified staff recommendations to state that the applicant should mitigate only 10 of the required parking spaces and not 12 spaces and the rest of the conditions stand.

Council
Questions/
Discussion

Vice Mayor Chin questioned if Ms. Whitmore is confident that the applicant will be able to meet the recommended conditions?

Ms. Whitmore stated they could complete them as they have a full plan set and what will allow them to close out their Certificate of Occupancy (CO) is engaging in the parking payment in-lieu and satisfying that condition of the development order.

City Attorney Paul Waters recommended if Council accepts the staff recommendations, to also add on putting time certain conditions on items such as the parking payment in-lieu and the CO.

Councilor Livingston questioned why the informal agreement for the four parking spaces was not part of the parking program?

Ms. Whitmore answered that the applicant stated that the spaces were not part of the program. Staff has not found any indication that there was a formal agreement or documentation that they are not part of the parking program.

Ms. Whitmore confirmed Councilor Messinger's statement that the four spaces are in the City right-of-way.

Councilor Messinger commented that any time any other applicant has utilized City right-of-way, they don't get parking count privileges toward the city right-of-way. Additionally, they have had to lease those spaces and pay monthly for the dumpster, such as The Local. He added we should be consistent and fair with how we have treated other businesses.

Councilor Key's questioned is it the assertion that the spaces are private?

Ms. Whitmore answered that the applicant feels that they have had sole use of those spaces historically and should be given credit for them. That is their justification to account for the use of those spaces.

Councilor Key pointed out that there was an accident, and the City was served with a lawsuit as it was on City property. If that was the applicant's property, then they would be served

the lawsuit. She asked if there was anywhere else to place the dumpster? It is unsightly where it currently is.

Ms. Whitmore reported that it had been discussed at the CDB meeting. The site is very constrained and is a zero-lot line. The fact that they have a seven-space area behind the building is unusual. The only place it could go is in that location.

Mr. Waters pointed out that Article I of the Florida Constitution states you cannot use public funds for private benefit. This means the city cannot give its property away.

Councilor Key asked if it would be out of line to push this back to have more conversations instead of making a decision now and ending up in another stalemate?

Ms. Whitmore remarked that it was suggested that the applicant applied for a lease for that area. They were not ready to do that at this time.

Councilor Key expressed that she is not comfortable moving forward with this as this is the first time hearing about some of this.

Ms. Whitmore answered Councilor Livingston's inquiry that if there was a lease agreement, there would be no need for a variance. She added that they are asking for a four-space variance in an area that is occupied by two spaces and a dumpster.

Councilor Livingston stated that it is City property, and the applicant is saying that they don't want to enter into a lease agreement because they believe they have a right to those spaces. She added she would push to enter into a lease agreement as we are violating the Florida Constitution as it stands right.

Mr. Waters advised that could be one of the conditions for approval is to enter into a lease agreement.

Ms. Whitmore pointed out that the purpose of the parking fee in lieu of program is to account for these types of situations. The variance is to alleviate payment in-lieu for four spaces.

Councilor Messinger stated that we are trying to combine issues. The one issue is do we want to grant variances so the applicants can count city-owned land. For the dumpster, they could lease City property and treat it just as we have with The Local. Or they could put the dumpster on their property and they would have to mitigate those spaces because they are no longer being use for parking. He added that the Council voted on a space count almost a year ago. He would not want to see it continue to drag out and wants to vote on what is before Council. We would then allow them the option to mitigate the parking that a dumpster would take up or lease from the City, treating it the same as The Local.

Vice Mayor Chin agreed with Councilor Messinger. It would be simpler and more straightforward to consider the application at hand. Then it would be up to the applicant on how to move forward based on that vote.

Councilor Messinger suggested as a separate item with this dumpster, giving a timeline to enter into a lease agreement or move the dumpster onto their property and mitigate the space required.

Mr. Waters agreed that there should be a time certain on whatever decision is made.

Ms. Whitmore questioned what would be the consequences for not meeting the time certain conditions if not followed through?

Mr. Waters clarified that there is the ability to cease to utilize

Variance Vote the space. Made by Chin, seconded by Key.

MOTION: **TO ACCEPT STAFF RECOMMENDATION TO DENY V24-03**

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Swearing In/Applicant Mr. Waters administered the oath to anyone who would be presenting testimony.

Robert Tilka, representing Pete's Bar, 3584 Trident Court, Jacksonville Beach, stated they have had the parking spaces since they purchased Pete's Bar almost three years ago. They have not gotten any tickets. He added there was a handshake agreement between the Jensen Family and the City when the homes were moved there. He is asking for the variance to put the dumpster and take the two spaces next to it.

Shahab Derazi, 500 3rd Street S., Jacksonville Beach, reiterated that when they first purchased Pete's Bar, they found every piece of history and the parking was a handshake. They would like to build a dumpster corral. The other spaces are for employees and vendors. They are trying to continue to work with the City and make it better.

Development Order Vote Made by Chin, seconded by Key.

MOTION: **TO APPROVE THE DEVELOPMENT ORDER WITH THE FOLLOWING CONDITIONS:**

1. THE APPLICANT SHALL MITIGATE THE 12-PARKING SPACE DEFICIENCY WITH "PAYMENT IN-LIEU OF PROVIDING OFF-STREET PARKING":
2. THE DEVELOPER SHALL SUBMIT A FINAL DEVELOPMENT PLAN, AS DEFINED IN THIS CODE, FOR REVIEW BY THE CITY COUNCIL.
3. THE APPLICANT SHALL OBTAIN A DEVELOPMENT ORDER APPROVAL.
4. THE APPLICANT SHALL COMPLETE THE RELATED SUBMITTED REMODELING BUILDING PERMIT.
5. THE APPLICANT SHALL RECEIVE A CERTIFICATE OF OCCUPANCY FOR THE SUBJECT BUILDING PERMIT IMPROVEMENTS.
6. THE CERTIFICATE OF OCCUPANCY BE ISSUED WITHIN 45 DAYS
7. THE "PAYMENT IN-LIEU OF AGREEMENT" BE ENTERED INTO WITHIN 30 DAYS

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

OLD BUSINESS

Purchase of City
Right-of-Way

Approval of Contract between City of Neptune Beach and Marshpoint Properties Two, LLC, for Purchase of City Right-of-Way Along Marsh Point Road and Florida Boulevard. Mayor Brown announced this item was deferred.

NEW BUSINESS

Res. No. 2024-07,
Order of Business

Resolution No. 2024-07, Order of Business. A Resolution of the City of Neptune Beach Establishing the Order of Business for the City Council Regular and Workshop Meetings.

Made by Chin, seconded by Key.

MOTION: TO ADOPT RESOLUTION NO. 2024-07, ORDER OF BUSINESS

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Res. No. 2024-08,
PORF Board Appt

Resolution No. 2024-08, A Resolution of the City of Neptune Beach Appointing Member to the Police Officers' Retirement Board. This resolution appoints Raymond Len to fill the unexpired term of John Jolly on the Police Officers' Retirement Board.

Made by Livingston, seconded by Key.

MOTION: TO ADOPT RESOLUTION NO. 2024-08, APPOINTING RAYMOND LEN TO THE POLICE OFFICERS' RETIREMENT BOARD

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Summer Sands
Speed Hump
Application

Summer Sands Speed Hump Application.

Made by Livingston, seconded by Key, Messinger.

MOTION: TO APPROVE THE SUMMER SANDS SPEED HUMP APPLICATION

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Termination of
Declaration of
Emergency
Hurricane Helene

Termination of Hurricane Helene Declaration of Emergency.

Made by Key, seconded by Livingston.

MOTION: TO TERMINATE THE DECLARATION OF EMERGENCY DUE TO HURRICANE HELENE

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Declaration of
Emergency/
Hurricane Milton

Declaration of Emergency Due to Impending Hurricane Milton.

Made by Chin, seconded by Livingston.

MOTION: TO APPROVE THE DECLARATION OF A STATE OF EMERGENCY FOR THE CITY OF NEPTUNE BEACH DUE TO IMPENDING HURRICANE MILTON

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Water/Wastewater
Laboratory Services

Memorandum of Understanding between JEA and CONB to Provide Water and Wastewater Laboratory Services. Mr. Calhoun explained that JEA operated their own analytical laboratories to provide samples for their facilities. They have the same permits that the City has with DEP. This authorizes their lab to provide those services at a reduced cost compared to the commercial laboratory being utilized now. He has provided the MOU that was approved by the JEA Board. The recently approved Neptune Beach budget includes funds for anticipated laboratory services.

Made by Chin, seconded by Livingston.

MOTION: TO APPROVE THE MEMORANDUM OF UNDERSTANDING BETWEEN JEA AND CONB TO PROVIDE WATER AND WASTEWATER LABORATORY SERVICES

Roll Call Vote:

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

Noes: 0

MOTION CARRIED

Senior Center Roof
Repair

Senior Center Roof Repair. Mr. Calhoun reminded everyone the facility sat unfinished and unused for a number of years. The facility was originally six premanufactured units bolted together to form one structure of about 5,000 square feet. Last year, roof seams were repaired. Those were the seams where the six modular units were buttoned together. This summer, there were reports of musty odors. Moisture probes were used and identified in the northwest room a percentage of moisture that indicated there was water behind the panels.

Mr. Calhoun explained Earthwise was issued a purchase order in August in the amount of \$24,150.00 for the described work. While performing the described work, it was discovered the roof perimeter in some cases is leaking. He added that the roofer is concerned that the existing cornice is saturated. He also suggested we could get a second opinion from the roofer who replaced the City Hall roof and getting other quotes. Staff is requesting a change order in the amount of \$28,149 for removing and replacing the perimeter cornice and related work and award to Jacksonville Roofing USA, LLC, in the amount of \$5,290.00 for supply and installation of flashing, drip edge and self-adhesive sheeting. He pointed out that the CFO has identified the CDBG fund that will provide the funds for this repair.

Vice Mayor Chin commented that it looks like there were construction details not inspected at the time this was put together. There was not a project manager at the time.

Made by Chin.

MOTION: **TO AWARD EARTHWISE INFRASTRUCTURE SOLUTIONS FOR \$28,149.00 AND JACKSONVILLE ROOFING USA, LLC FOR \$5,290.00 FOR SENIOR CENTER REPAIRS**

Councilor Livingston stated she feels that the City is at a point where the Senior Center is there and we can't after five years let it become dilapidated. She would like to see the other options. She would feel more comfortable exhausting all of the options.

Vice Mayor Chin withdrew his motion.

Councilor Key expressed that with the Senior Center we are constantly throwing good money after bad.

Mayor Brown announced this would be deferred until Mr. Calhoun could get back to Council with more information.

Councilor Key expressed her appreciation to Mr. Calhoun and staff for seeing a problem and being proactive in fixing it.

COUNCIL COMMENTS

Vice Mayor Chin announced that there is a running track at Neptune Beach Elementary that is in need of improvement. The PTA is organizing a 5K to raise funds to rebuild the track. They are seeking sponsors for this event.

Councilor Key added that the track and playground at Neptune Beach Elementary is considered a city park. After 6:00 p.m. Monday- Friday and on the weekends, it is available for use as a public park. They need to raise \$90,000 to make this happen. She would like, with support of Council, give direction to the City Manager to have Colin Moore proactively see what we can do as a City to help this cause. She would also like to see what the City could contribute.

Adjournment

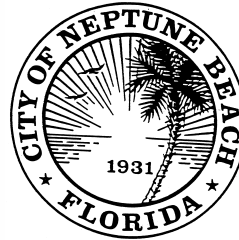
There being no further business, the meeting adjourned at 7:38 p.m.


Elaine Brown, Mayor

ATTEST:



Catherine Ponson, CMC
City Clerk



Approved: 11-04-2024