



**MINUTES**  
**SPECIAL CITY COUNCIL MEETING**  
**TUESDAY, FEBRUARY 16, 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 Tuesday, February 16, 2021, at 6:00 p.m., at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266.

Attendance:	<p><b>IN ATTENDANCE:</b>  Mayor Elaine Brown  Vice Mayor Fred Jones  Councilor Kerry Chin  Councilor Lauren Key  Councilor Josh Messinger</p>	<p><b>STAFF:</b>  City Manager Stefen Wynn  City Attorney Zachary Roth  Chief of Police Richard Pike  Chief Financial Officer Carl LaFleur  Public Works Director Jim French  Mobility Management Director Megan Steward  Senior Center Director Leslie Lyne  Grant and Resiliency Coordinator Colin Moore  Community Development Director Kristina Wright  City Clerk Catherine Ponson</p>
Call to Order/Roll Call/Pledge	Mayor Brown called the Special Meeting to order at 6:00 p.m. and Councilor Messinger led the Pledge of Allegiance.	
Public Hearing- Development Agreement	<p><u>First of Two Public Hearings</u>—Development Agreement between City of Neptune Beach and Neptune Beach, FL Realty LLC, for the property known as 540-580 Atlantic Boulevard (RE#172395-0130)</p> <p>Mayor Brown explained this is the first of two public hearings on a Development Agreement between the City of Neptune Beach and Neptune Beach, FL Realty LLC.</p>	
Public Hearing	Mayor Brown opened the public hearing. There being no comments from the public, the public hearing was closed.	
Neptune Beach City Attorney	<p>Mayor Brown asked City Attorney Zachary Roth to remind everyone where we are and how we got to this process.</p> <p>City Attorney Zachary Roth explained that about one year ago, the owners of the property, Neptune Beach, FL LLC, approached the City about the old Lucky's space which was in bankruptcy. The idea was for Publix to acquire the lease and potentially to move into that space. The City had concerns regarding a provision of our Code regarding similar run businesses. Staff also opined that the City was not certain that the property would qualify for a variance.</p>	

The idea developed of a development agreement to perform tasks on the property that may alter it and make the variance provisions a little more applicable here.

Over the process, it is a development agreement, that will be recorded into the public record that is designed essentially for certain improvement updates, activity, landscaping and things like that to this parcel that would alter the analysis into this document.

The development agreement has been heavily negotiated through the process in terms of what is going to be done, how do we guarantee it is going to be done and what happens if it is not done.

Instead of just the language of the document, there are also photos, landscaping plans and building plans that have run parallel in this process. Mr. Roth added that we are to a point where the development agreement is in place where the parties are comfortable to bring to Council.

There are certain deadlines within this agreement that are provided. The developer has to meet those deadlines at various stages in terms of building permits, plan submissions, initial instruction, construction deadlines, and items like that. This is a binding date. Each time a binding date is not met, there is an extension fee. Those fees will be held in an escrow fund by Ansbacher Law, P.A.

Applicant  
Presentation

Andrew Greene, Vice-President, TLM Realty, applicant and property owner, introduced individuals joining virtually who were involved in the process, including Bob Balcerak,, David Rubin, Anthony Rodriguez, and Andy Pillari with Publix, and Jake Cremer and Elise Bartel with Stearns, Weaver, Miller. He gave a brief overview of what was presented to the Community Development Board in September, 2020.

He presented placemaking enhancements for the proposed area, including a new pedestrian plaza on Lemon Street, expanded front walk and new courtyard. He anticipates coffee shops and restaurants will use that area.

Along Atlantic Boulevard, as you are driving toward the ocean, they would retain some of the mature landscaping and there would be a new monument sign to match the modern renovation. There would be a vehicular connection to 630 Atlantic Boulevard.

A final concept or addition to the development agreement are City Manager Coordination Meetings. These meetings will give City staff the opportunity to review the latest design plan and confirm that those plans continue to be in keeping with the exhibits.

Council  
Questions

Councilor Key asked what guarantees does the City have or does Mr. Greene have that Publix will move into the space.

Mr. Greene explained that there is a condition in the development agreement that a lease get signed from Lucky's Market to Publix. Publix is contractually obligated to open in that location within 19 months.

Mr. Roth stated that there should at least be a provision that there is an obligation to open it that is enforceable by specific performance.

Mr. Greene indicated that there are other small shops and those tenants are going to want to be sure that Publix will open.

Councilor Key asked to see a copy of the lease. Mr. Green stated it is confidential but he could review that provision with the City Attorney. He answered that the lease would probably be terminated to Councilor Key's inquiry of what would happen if they did not open.

Vice Mayor Jones questioned if the developer had any active discussion with Seminole Shoppes at 630 Atlantic Boulevard regarding that parcel connection.

Mr. Greene answered that there was a requirement for the construction of a roadway in the 2010 development of 630 Atlantic. They have completed their section.

Councilor Messinger added that there is no intention to complete that connection and then install bollards to make it effectively complete but not useable.

Discussion

Councilor Chin commented that some of what the City wants to do is create a more walkable community and encourage bicycling as alternate modes of transportation. He questioned if there are 20 bike parking spots or 20 bike racks and asked what was the intention.

Mr. Greene stated those were the kinds of elements to be developed but there would be proper accessible parking with several locations.

Councilor Messinger said that the overall plan has a significant increase of over 70 hardwoods and he had expressed during the feedback that he wanted more tree canopy. He agreed with Councilor Chin regarding bicycles and it would be ideal to increase bike parking. Overall, it would be a great improvement to Atlantic Boulevard. He would like to see the bicycle parking squared away before the next meeting.

Vice Mayor Jones expressed it would be a great opportunity to work with local artists to come up with some schematics to provide parking. He stated that the development agreement references mobility fees on Page 9 of the agreement. Neptune Beach does not have those so it may be simple to just call it impact fees since it constitutes a specific entitlement.

Councilor Key questioned, in order to understand, that they would be doing improvements to the property in order to get a variance that is not in compliance with our big box ordinance.

Mr. Roth said that the intention behind this Development Agreement and the modification is to create a circumstance better qualifies the property for a variance.

Councilor Key questioned that potentially the property that has been an eyesore for the community, would be given a variance, on an ordinance we have something against, in order for them to start improving the property.

Mr. Roth stated that the Development Agreement and the variance go hand in hand. The Development Agreement is tied to the variance that would vary the provision of our Code regarding the big box ordinance in recognition of the improvements, modifications, and alterations.

Mayor Brown conveyed that a lot of time has been put into this with input from everyone. There is protection for the City and she feels comfortable with where we are with recommendations by our City Attorney.

Made by Jones, seconded by Messinger.

**MOTION:**

**TO MOVE THE DEVELOPMENT AGREEMENT TO A SECOND  
READ ON MARCH 1, 2021**

Roll Call Vote:

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

Noes: 1-Key

**MOTION CARRIED**

ACON Constr.-  
Change Order  
#1

**Approval of ACON Construction, Change Order #1 - Jarboe Park Improvements Phase I.**

Mr. Wynn reported that the original contract price was \$279,379.98. The change order amount is \$41,812.50 for a new total of \$321,192.48. The additional work being added includes grading of additional fill materials at the pickle ball, basketball and tennis courts; additional asphalt at handicapped parking near bridge; strip and removal of existing asphalt from tennis courts; grading of limerock and fill; grading of relocated areas; and installation of concrete circular path adjacent to Neptune House.

Councilor Messinger thanked City staff for all of their hard work in this project.

Councilor Key stated there should be more accountability on funding. There are a lot projects that are costly. She questioned where the City is right now without any other change orders.

Mr. Wynn reported if this change order and the next item on the agenda are approved, it is roughly \$646,000 without the courts.

Councilor Key expressed that the courts, sidewalks, sod, parking and stormwater still have to be completed. She asked for a ball park figure for where will the City be with all of that added in.

Mr. Wynn replied depending on the court costs, most likely, one million dollars.

Councilor Key stated she had reviewed prior budgets to get a better understanding. Those costs for Jarboe Park, with a five-year plan, reported \$287,000 and now we are at one million. She is concerned and plans on addressing these issues at the Finance Committee meeting on February 24. She has a hard time approving a change order when there isn't a full grasp on what we are spending.

Councilor Chin questioned the reason for the additional fill and if it is an engineering reason.

Mr. Wynn explained one of the water lines coming from the water plant goes under the volleyball courts. The courts are shallower than the design engineer thought. Public Works Director Jim French looked at the calculations and in order to make this work and have positive drainage, the pad would need to be raised.

Councilor Messinger pointed out that you would have to go back to the previous City Manager's budgeting to see why we are where we are at today. Actual true budgeting started happening when Mr. Wynn came on board. Grant and Resiliency Coordinator Colin Moore has been writing a significant amount of grant money for this project. He added the current budget and the budget from last year are greatly improved.

Mayor Brown thanked City staff for reviewing the project and doing as much as we can in-house. We have a project that has gone over budget and we will make sure we get a much clearer picture moving forward.

Made by Messinger, seconded by Jones.

**MOTION:**

**TO APPROVE AKON CONSTRUCTION, CHANGE ORDER #1,  
JARBOE PARK IMPROVEMENTS PHASE I IN THE AMOUNT OF  
\$41,812.50**

## Roll Call Vote:

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

Noes: 1-Key

**MOTION CARRIED**

KOMPAN  
Playground  
Equipment-  
Change Order  
#1

Approval of KOMPAN Playground Equipment, Change Order # 1 - Jarboe Park Improvement Phase I.

Councilor Messinger explained that this is for two additional sail shades and more playground equipment. This is based on feedback received. These are 20-year and 10-year warrantied equipment. This vendor came back with the highest review for quality and longevity. This is a long-term investment for the community. The original sales proposal was \$232,801.05. The amended sales proposal is \$288,651.83. The change order is for the difference of \$55,850.78

Councilor Key stated she supports children having a fun and safe place to play. Right now, her concerns are where we are with the budget and the spending of our Better Jax Funds. She does not feel comfortable approving things until she has a better understanding of where we are with the budget right now.

Councilor Chin commented that the reason for the changes is resident-driven. He is sympathetic to Councilor Key's concerns and having a better understanding of where the money is coming from. It is important to give the people and residents' children something they can enjoy for years to come.

Made by Chin, seconded by Messinger.

**MOTION:**

**TO APPROVE KOMPAN PLAYGROUND EQUIPMENT, CHANGE ORDER # 1 - JARBOE PARK IMPROVEMENT PHASE I IN THE AMOUNT OF \$55,850.78**

## Roll Call Vote:

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

Noes: 1-Key

**MOTION CARRIED**

Ghiotto &  
Associates,  
Add'l Costs

Approval of Ghiotto & Associates-Additional Construction Staking Costs -Jarboe Park Improvements Phase I

Vice Mayor Jones stated at this point this is a procedural issue that we will run into given the way we are doing this project. Looking at this project and the perspective people wanted could be a three million dollar job. This is actually a good price given where we are with our budget and what we are planning on getting. A park in the City of Jacksonville would cost much more.

Councilor Key stated that the most recent estimate was 2.8 million and has the potential to cost that here if we are not careful in the process.

Mr. Wynn answered Councilor Messinger's inquiry that the 2.8 million is the estimate from Parsons Engineering for Phases 1A, 1B, 1C and Phase 2.

Mr. Wynn stated for this agenda item there were three quotes for the staking and it is over the minimum threshold for his approval. This will require Council approval and a contract.

The price should be a total not to exceed \$12,000, which includes \$3,682.50, already spent, with \$8,317.50 remaining.

Made by Messinger, seconded by Jones.

**MOTION:**

**TO APPROVE GHIOTTO & ASSOCIATES-ADDITIONAL  
CONSTRUCTION STAKING COSTS JARBOE PARK  
IMPROVEMENTS PHASE I NOT TO EXCEED \$12,000**

Roll Call Vote:

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

Noes: 1-Key

**MOTION CARRIED**

Res. No. 2021-04, Opposing Short-term Rental Legislation

Resolution No. 2021-04, A Resolution of the City Council of the City of Neptune Beach, Florida, Opposing Florida Senate Bill 522 and House Bill 219, Which Would Preempt Regulation of Short-Term Rentals to the State; Providing for Conflicts; and Providing for an Effective Date

Mayor Brown stated Home Rule is important to everyone and we want to send a strong message to legislators.

Councilor Chin pointed out that he sees signs for short-term rentals that meet our minimum requirements but only stay one week and being refunded for the rest of the time. He wanted to make sure the City could prevent people from finding loopholes around our restrictions.

Made by Messinger, seconded by Chin.

**MOTION:**

**TO APPROVE RESOLUTION NO. 2021-04, OPPOSING FLORIDA  
SENATE BILL 522 AND HOUSE BILL 219, WHICH WOULD  
PREEMPT REGULATION OF SHORT-TERM RENTALS TO THE  
STATE**

Roll Call Vote:

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

Noes: 0

**MOTION CARRIED**

**PUBLIC COMMENT**

Public Comment

John Holmes, 914 4<sup>th</sup> Street, Neptune Beach, spoke regarding an update on Bay Street parking. He said the newly-constructed fence leaves no room for anyone to walk except on the street.

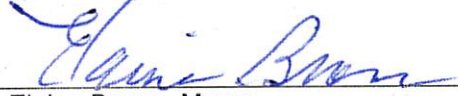
Chuck McCue, 1908 3<sup>rd</sup> Street, Neptune Beach, stated he appreciated Councilor Key being the voice of reason on expenditures. He questioned the mound of dirt where the children's playground was and suggested using that dirt on the tennis courts. He asked if the asphalt would be recycled. He stated the shade sails for the playground areas would last 8 to 10 years in Florida and noted the shipping fees. He is concerned about the low-bid spending. He suggested fixing drainage on Kings Road instead. He questioned the number of pickleball courts. He added that the park should be for residents. Mr. McCue remarked that he had concerns about the vagueness of the lease at Publix.

Scott Wiley, 723 Davis Street, Neptune Beach, stated everyone wants nice playground equipment and shade in the park. As former chairman of the Finance Committee, and these items were discussed but it was never mentioned that the park was over budget. We need to stay close to the budget. He requested receiving bids before deciding to do something.


Pat Hazouri, 207 Florida Boulevard, Neptune Beach, asked where could she see the plans for Jarboe Park. She commented that when she saw the plans back in January, there was one bridge toward the west that would be for handicapped parking. She asked if another bridge has been added. She asked what happened to the Neptune House and was it ever repaired.

Adjournment

There being no further business, the Special Meeting adjourned at 7:11 p.m.

  
Elaine Brown, Mayor

Attest:

  
Catherine Ponson, CMC  
City Clerk

Approved: 3-1-2021

