

MINUTES
REGULAR COUNCIL MEETING
CITY OF NICEVILLE, FLORIDA
SEPTEMBER 11, 2012

The Niceville City Council met in regular session at 7:00 PM, September 11, 2012 in the Council Chambers, 208 N Partin Drive. All Council members and the Mayor were present. Also present were City Manager Lannie Corbin; City Clerk, Dan Doucet; Police Department, Chief Popwell; Public Works Director Bruce Price; Fire Department, Asst Chief Tony Lorman; Library Director, Sheila Bishop; a member of the press, and 49 visitors in the audience. Councilman Henkel offered the prayer and led the pledge of allegiance. Mayor Wise called the meeting to order at 7:00 PM.

APPROVAL OF MINUTES:

Regular Council Meeting, August 14, 2012
Special Council Meeting, August 16, 2012
Special Council Meeting August 28, 2012
Special Council Meeting August 30, 2012
Planning Commission Meeting, September 4, 2012
Local Planning Agency Meeting, No Meeting Held

Councilman Rominger moved approval. Councilman Smith seconded. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

PUBLIC HEARINGS:

PRESENTATION:

Attorney Bert Moore – Moore Law Firm

Attorney Moore addressed the council stating his address as 6143 Old Bethel Rd, Crestview, FL. He stated that he is representing Mr Warren Cook and Mr Jim Finlayson regarding a rezoning request that has been denied previously by the City Council during two separate meetings. Mr Moore stated that since the last time we had met on the issue depositions were taken and it appears as though there may have been some misconceptions regarding our request on the part of the council thinking the request was considered to be spot zoning. He stated that the request is not spot zoning. His clients are only trying to change the current zoning from R-3 to RNC which is allowed according to the City Codes. Mr Moore stated if you look at this area it is a transitional area with commercial properties nearby. Mr Moore stated if necessary his clients are willing to place requested restrictions made by the City on the deed. Discussion followed. City Attorney Dixie Powell stated that the request for rezoning was processed

through the Planning Commission and was denied both times by the City Council. Mr Powell stated that the legal advertising fees were waived to prevent a financial burden on the requestor. Mr Powell suggested tabling the matter and he would assemble the documents on this case for the City Council's review in order to determine if the request should go back thru the Planning Commission before making any further decisions on the case. Discussion followed. Councilman Henkel moved to table this item to allow the council to review the documents and bring the request back to the council which was agreeable by Mr Moore. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Ordinance 12-09-01 – An ordinance annexing to the City of Niceville, Florida, contiguous lands described as set forth herein; providing for proper advertisement pursuant to Florida Statutes 171.044; providing that the property will be zoned R-1B. Lots 6 and 7, Block 114, Valparaiso Pine Crest 6. Providing for the severability of this ordinance; providing an effective date and providing for filing with the Clerk of Court and Department of State. Michael Floyd. (Third Reading)

Mr. Doucet read Ordinance 12-09-01 by title. Councilman Rominger moved approval on third reading. Councilman Smith seconded. No one spoke for or against. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Resolution 12-09-01 – A resolution granting a special exception to the Land Development Code, Section 7.14.02 (e) (1) and (3) to allow for a 12' front yard setback and a 3' side yard setback as opposed to the required 25' front and 7 ½ ' side. Lot 18, Block 1. Meigs Addition, according to the map or plat thereof as recorded in plat book 2, page 6, Public Records of Okaloosa County, Florida and providing for an effective date. Daniel and Darlene Taylor.

Mr. Doucet read Resolution 12-09-01 by title. Councilman Henkel moved approval. Councilman Smith seconded. No one spoke for or against. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Resolution 12-09-02 – A resolution granting a special exception to the Land Development Code, Section 7.14.02 (e) (2) to allow for a 10' rear setback as opposed to the required 25'. Lot 1, Block B, Creekside Phase 5, according to the plat thereof as recorded in plat book 7, page 93, of the Public Records of Okaloosa County, Florida, and providing for an effective date. Donte Scheffield, 290 Honeysuckle Way.

Mr. Doucet read Resolution 12-09-02 by title. Councilman Smith moved approval. Councilman Rominger seconded. No one spoke for or against. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Resolution 12-09-03 – A resolution granting a special exception to the Land Development Code to allow for a 10' rear setback as opposed to the required 25' and providing for an effective date. Lots 13, 14, 15, 16, and 17 Redwood Village. Michael Floyd.

Mr. Doucet read Resolution 12-09-03 by title. Councilman Rominger moved approval. Councilman Henkel seconded. No one spoke for or against. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Resolution 12-09-04 – A resolution granting a special exception to the Land Development Code, Section 7.16.00(d)(3), to allow for a 6' setback between buildings as opposed to the required 10'; Lot 1, Block 6, Palm Estates 4, and providing for an effective date. William Hash 2001 Plumosa Palm.

Mr. Doucet read Resolution 12-09-04 by title. Councilman Rominger moved approval. Councilman Smith seconded. No one spoke for or against. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Resolution 12-09-05 – A resolution granting a special exception to the Land Development Code, Section 11.05.00(e), to allow for an additional 61 feet, 8 inches to Dock B and 128 feet, 8 inches to Dock C, as opposed to maximum 200 feet per dock; and providing for an effective date. Metes and bounds. See Exhibit A. Ozean Marine, LLC.

Mr. Doucet read Resolution 12-09-05 by title. Councilman Rominger moved approval. Councilman Smith seconded. Attorney Jeff McInnis, 909 Mar Walt Drive, Fort Walton Beach, FL approached the council stating that he is the attorney for Ozean Marine. Mr McInnis stated that his client owns and operates the North Light Marina and Yacht Club. He advised the reason for being here tonight is to request a special exception to the Land Development Code regarding permitting and dock extension. He presented documentation to the City Council in support of his presentation. He advised both docks B and C have been permitted by the Department of Environmental Protection (DEP) and the Army Corps of Engineers. He advised that both are to be constructed within the Submerged Land Leased Area. Mr McInnis stated this lease is in place with the State of Florida and his client pays an annual lease fee. Mr McInnis stated that the City Land Development Code allows docks up to 200 feet in length and the special exception request is to exceed the 200 feet for dock B by 61.8 feet and dock C by 128.8 feet. Mr McInnis stated when his client purchased the Marina; the docks at that time exceeded the 200 feet allowed footage. They operated with a total of 48 slips. Mr McInnis stated that if the special exception being requested tonight is approved they will operate with a total of 55 slips. Initially the count was 68 slips, however, since the Jet Ski slips that totaled 13 have been taken out it's now a total of 55 slips. He stated that dock A and a fuel dock

are already in place. He stated because of the contour of the shoreline dock B would extend only 37 feet past dock A; and dock C would extend 4 ½ feet past dock B. A permit for the 200 foot docks are already in place. He stated only temporary mooring will be allowed at the end of docks B and C. Mr McInnis advised the City Council that in the packet of information provide is a Water Oaks Home Owner's Association Resolution of support that was written and approved by the Board of Directors of the association in support of the special exception (who are our neighbors) and have no objection to the request for special exception. In addition you will find a letter of support from WAMACA Investment Partners, LLC which is the Meig's family who own over six acres of land adjacent to the Ozean Marine LLC property on which is operated the North Light Marina and Yacht Club. The letter states they have no objection to the request for special exception and the dock extension and further stated that North Light Yacht Club has been a good corporate neighbor for WAMACA by working together in order to accommodate business operations. In addition, he stated that he was authorized by Mr Pat Bryne, Valparaiso Realty Company who owns a large portion of property directly across from the Marina who advised he has no objection to the request for special exception in that it will not interfere with business operations. Mr McInnis made reference to the red lined sketch of the proposed docs stating because of the curvature of the land it takes more dock to reach the first slip. For example, Dock B would extend 37 feet further than Dock A which is already in place. And Doc C would extend 4 ½ feet past Dock B. Mr McInnis stated that his client attended an annual meeting of the Water Oaks Home Owner's Association and because of their concerns for Jet Skis and their impact to the neighborhood his client has revised their plans. Mr McInnis stated they are taking out the 13 planned Jet Ski slips and confirmed there will be no jet skis leased by the Northern Light Marina. Mr McInnis stated that when his client purchased the Marina they participated in a grass bed shoreline restoration project which is part of their permitting process which is inspected on an annual basis at their expense. He stated this is one of the main reasons for the special exception is to have the dock extended to get past these grass beds that must be protected. Mr McInnis stated that because of the shore line Dock B must extend out 76 feet to reach the first slip to accommodate a boat of any size and Dock C would extend out 78 feet before reaching the first slip. Mr McInnis stated that he and his client are pleased to be here tonight to request the special exception because their business is prospering and they want to be good corporate citizens and neighbors. They are working with the City on a number of projects although they are not required to do so. They will be storing a fireworks barge that will be dismantled and stored at no cost. They have been working with the Fire Department to dock and store a new rescue boat that will be added to the Fire Department inventory at a later date. He stated the Dockside Café which is owned and operated by Northern Light which is a very popular restaurant that is enjoyed by Niceville residents. He stated the success of the Marina impacts the success of the restaurant making it an economic benefit to the City. Mr McInnis stated that there has been some environmental concerns of some of our neighbors that reside at Water

Oaks. Mr McInnis stated that the Northern Light Marina chose to participate in the Florida Clean Marina Certification Program. This is a voluntary program which is very expensive. To comply there are sewer pump out stations available at every dock/slip for easy access to the system. There is also a fish cleaning area that is self contained and disposed of without entering the bayou thus

protecting the environment. Boats are cleaned in an area that captures the dirty water which is self contained and recycled into reuse water to wash other boats. This service is offered to help keep the environment clean by meeting rigid standards set by the state. Councilwoman Boudreaux asked several questions concerning overflow parking. Councilman Henkel asked several questions about the grass beds, pylons, and setbacks. Discussion followed. Mayor Wise asked if anyone from the audience wanted to speak regarding this request for special exception. Mr Ron Ogle, 100 Regatta Drive stated he gave out a petition opposing the special exception during the Planning Commission Meeting that contained 23 properties at the time of the meeting. He stated there are now a total of 31 that are against it. He made reference to the board passing the resolution stating he felt they did not have the authority to do so since they didn't have a good number to base their decision on. He stated there are concerns about reduced property values; concerns about cove areas of the bayou will not get flushed out; concerns about too many boats dropping things in the bayou. Attorney Powell inquired about the validity of the Water Oaks Resolution that was passed in favor the Special Exception. Mr Ogle's explained that his opinion of the Board of Directors was to take care of the required maintenance, collecting homeowner fees, etc. Attorney Powell requested clarification on the responsibilities of the board asking if they were elected by the members of the association and had the right to make decisions on behalf of the board. Discussion followed. Dr Charles Roberts, the treasurer of the board explained a notice of the agenda was posted 48 hours prior to the meeting as required. He stated that North Light was on the agenda. Dr Roberts stated that he and Mr Ogle were not able to attend the meeting. In addition, Dr Roberts stated there was a 30 minute discussion regarding the Resolution in support of the requested special exception and the vote was 4 to 2 in favor of it. Dr Hall Pruitt, 610 Regatta Circle stated he is the Chairman of the Water Oaks Docks and Commission. He advised that he attended the meeting in question and only 4 people voted in favor of the Resolution which is not a true opinion of the homeowners. Discussion followed. Ms Ogle, 100 Regatta Drive stated the Board of Directors cannot supersede a property owner's right. She stated the meeting was advertised, however since they failed to state what they wanted to do they cannot represent us. She stated that our City Codes require that dock lengths be no longer than 200'. She explained her opposition to the special exception making reference to presentations made on behalf of the Marina is required in our code of ordinances. She is concerned about the bayou becoming too crowded for kayakers and small paddle boats which would result in safety issues. She wants to save our bayous for future generations. The owner of the Dockside Café expressed his support for Northern Light Marina stating it is a positive move for the

community. Mr Richard Tew, 713 Bayshore Dr explained his support in favor of the dock extensions. He stated there are very few skiers in the area; barges can still turn around without a problem, etc. Ms Patricia Pruett, 610 Regatta Drive presented an extract of the Niceville Code making reference to docks stating that Boggy Bayou in Niceville represents the economic heritage of the City of Niceville and as such requires protection to guard against future degradation. She stated that Marinas and boating activity in the bayou tend to increase proportionately with Niceville's growing population. She stated measures to ameliorate the impact of high intensity use of the bayou are essential to protect this valuable resource. She handed out a petition containing 31 names opposing the special exception. Mr John Sullivan, 205 Early Street stated he owns a Fiberglass business and the new Marina has been good for his business. He stated the benefits of the new Marina adding value to properties in the area, stating services offered by the Marina such as pump out stations and fish cleaning is much better for the environment. Mr Richard Comer, 440 Ruckel Drive stated he had the first boat to use the services of North Light Marina. He praised the Marina and explained the reasons why he is in favor of the dock extension. Mr Greg Postulka, 2043 Kildare Circle stated he is a land bound boat owner and also a Marina member. He expressed his support for the North Light Marina and the Dockside Café. He advised he has listened to both sides and he felt it is really what's best for the community. He praised the Marina and the Dockside Café as a positive move for the City and where this community should be headed. Discussion followed. Mr Bob Secrest 202 Regatta Dr stated he moved here in May of this year. He stated that he is trying to understand what is different with this request as compared to a request that was disapproved approximately 2 years ago to extend these docks. Discussion followed. He stated he was deeply concerned about the Board of Directors making decisions on behalf of the membership and didn't feel they actually had the authority to do so. Attorney Powell stated the board had the absolute authority to make decisions on behalf of the membership. The Resolution approved by the board will remain in effect until such time that it is superseded or rejected by a court of law. Mr Secrest stated he hoped the council would consider the petition containing 31 names which represents the majority of the owners. Discussion followed. He stated he is deeply concerned about what effect this special exception will have on the value of his property. Mr Matthew Kalch 617 McKinney Street expressed his opposition to the special exception stating that the Water Oak residents are stuck with the issues caused by the dock extension, while the Marina and Café owners go home to their own setting without having to deal with these issues. He stated he loved to kayak and ride a canoe in bayou, however, he felt he'll have to move to deeper waters if the special exception is approved. The additional boats in the bayou will reduce the water flow resulting in less clean water. He stated he couldn't understand the big uproar over 16 slips – didn't view that as a great impact. Marina owner Mr Joe Winkler said 20 percent of the new slips will be for temporary users, such as people who bring their boats to the Marina for brief or overnight stays, to eat at the restaurant, or to refuel or obtain repairs and other services

provided by the Marina. Several of the council members asked a variety of questions regarding the permitting process and the submerged land use lease agreement. Councilman Smith stated that a lot of things have been discussed tonight; however the primary reason is a special exception to extend the docks. He stated that it was a good move to eliminate the 13 Jet Ski slips and further stated that a lot of scientific research is done during the permitting process. Councilman Schaetzle stated that regardless of how everyone votes tonight he wanted everyone to know that a lot of research has been done on this issue to include visiting and talking to concerned residents in trying to do what is best for Niceville. Discussion followed. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Resolution 12-09-10 – A resolution authorizing the City Manager to purchase services for proposed sidewalk improvements in the City of Niceville.

Mr. Doucet read Resolution 12-09-10 by title. Councilman Smith moved approval. Councilman Henkel seconded. No one spoke for or against. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

CITY MANAGER REPORTS/REQUESTS/RECOMMENDATIONS:

Water/Sewer/Drainage Projects – Update

Mr Price briefed the status of current projects.

Water & Sewer Projects

Well # 6: Construction of the new well building is progressing well to include the installation of the new generator.

Sewer Line Rehab Projects:

Kelly Road: The contractor has completed the camera inspection of the line and man holes in Kelly road and that work has been scheduled to begin next week.

Partin Drive @ Mayo & Powell: Polyengineering is in the process of obtaining the required DOT Permit and this work will be scheduled when that permit is acquired. (This is the point repair & relining of the deteriorated sewer services under SR 285)

Pump Station # 69 Wet Well Repairs: The contractor has begun the repairs to the leaking wet well bottom. City crews are performing the by-pass pumping while the contractor is performing the work. (Infiltration of ground water in wet well)

Bayou Plaza Water Main: We are acquiring the DOT permits to install the segment of water main in the right of way along John Sims Parkway south of Bayou Plaza. (This is the extension of water main across Plaza Parking lot to Spence Circle and around Spence Circle to back of Shopping Center to increase the water service and fire protection.)

Storm Water Projects:

Turkey Creek Site A Funding: The reimbursement for this project has been approved and released.

Valparaiso Blvd.: Permits obtained and Bid awarded. Awaiting final verification from DEP that this project is approved in the facilities plan and eligible for funding under the current SRF loan. Our Plan is to complete this project under the current loan and apply for new SRF funding for future projects.

Kailyn Court: City crews are installing an inlet to alleviate erosion at the retention pond at the end of the street.

Dana Pointe: The low bidder was substantially lower than the other bids we received. We are waiting for replies from work references that were provided by the low bidder. Once we review those references and are satisfied we will come to you with our recommendation for awarding the bid.

Bayshore Drive: We are also planning to do some ditch maintenance along the south end of Bayshore Drive to alleviate some standing water concerns.

Note: I have been in discussions with Okaloosa County Mosquito Control on stocking the wet retention pond serving Oak Ave., 13th Street near Bayshore Place with the minnows that consume the mosquito larvae. They are looking into using this facility as a hatchery for those minnows.

Other Projects:

Sidewalk & Pathway Construction: We will be coordinating the installation of the sidewalks and asphalt walkways after the contract is approved. Some of the locations designated for sidewalks will require the relocation of fences, signs, mailboxes and other obstructions. One of the longer path projects in this contract is Rocky Bayou Road. I spoke with Okaloosa County Water & Sewer regarding the force main work that is ongoing along Rocky Bayou Road and that trail installation will begin when the force main work is completed.

Development Up-Date:

Magnolia Woods: We have completed our final inspection of this development and all required development permits have been closed.

Parish Water View: We have received the final NPDES Permit closure and this project is approved for home construction.

Publix Building Site: The City completed its review of the building site plans for the Publix and submitted comments back to the developer last week. Those changes have been made and added to the site plan and building site plan has been approved.

New Boulevard Plans: We are now reviewing the plans for the main boulevard which include the DOT connections along SR 20 and the Round-a-bout on Rocky Bayou Road. Our comments will be provided to the developer and we will work with them on any issues.

Rocky Bayou Stables Development: We have meet with the engineers and looked at the preliminary layout for the proposed development near Forest Road. The proposed drainage outfall route and the impact of the additional sewer on our system are being evaluated at this time.

South Bayshore Drive: There are 2 proposed developments for this area at this time. We are working with the engineers regarding the water and sewer service requirements for these developments. Our goal is to determine what the water & sewer needs are for a total build out of this service area and what needs to be designed to accommodate that growth.

Lift Station Issue – Emergency Repair

Mr Price and Mr Corbin briefed the council regarding a horizontal directional bore that is required in a wetlands area near Swift Creek. The estimated cost of the repair is \$ 25,000. They advised it would take 3 months to bid it out and asked for council approval to move forward with the project. They advised it's a very deep line with only one shallow area. Councilman Smith moved approval to move forward with the project. Councilman Henkel seconded. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

Regional Sewer System – Update

No Report.

LIBRARY - UPDATE:

Okaloosa County Public Library Cooperative Interlocal Agreement - Approval

Ms Bishop, Library Director explained the purpose of the agreement and requested council approval. Councilman Henkel moved approval. Councilman Schaetzle

seconded. No one spoke for or against. Council Vote: Henkel-yes; Schaetzle-yes; Boudreaux-yes; Rominger-yes; Smith-yes. Motion passed.

FIRE DEPARTMENT - UPDATE

Chief Mayville advised that during the month of August the Fire Department responded to a total of 131 calls. There were 129 calls located within the city limits and 2 mutual aid calls. He advised that fire department personnel are currently updating pre fire plans throughout the City and are continuing to work on the boat grant process. He stated they are working up a schedule for fire prevention activities throughout the community. Chief Mayville advised that department personnel attended several 9/11 services. He advised that firefighters attend all Niceville High School home football games to provide medical assistance if needed to the players and spectators.

POLICE DEPARTMENT – UPDATE

Chief Popwell stated that during the month of August the Police Department responded to 1807 calls for police assistance. A total of 92 vehicles were involved in reported crashes. The estimated amount of damage to these vehicles and related property was \$185,129. A total of 257 Traffic Citations were issued, 22 Misdemeanor, 16 Felony and no DUI Arrests were made.

OTHER BUSINESS:

BUILDING INSPECTION – UPDATE

Mr. Darcy Chaney briefed the council stating that the building activity in the City is steadily improving in both the Residential and Commercial areas.

BILLS PAYABLE

Councilman Smith moved approval. Councilman Rominger seconded. Council Vote: Henkel-yes; Schaetzle-yes; Thomas-yes; Rominger-yes; Smith-yes. Motion passed.

The meeting adjourned at 9:15 P. M.

MAYOR

ATTEST:

CITY CLERK