

**City of DeBary**  
**REGULAR CITY COUNCIL MEETING**

**Wednesday**

**May 4, 2005**

**7:00 PM**

Florence K. Little Town Hall

12 Colomba Road

DeBary, Florida 32713

**MINUTES**

**I. Call to Order**

1. Invocation
2. Flag Salute

**II. Roll Call**

**Members Present:** Mayor Carmen Rosamonda, Vice Mayor Richard Gunter, Council Member Christopher Carson, Council Member Patrick Fulton and Council Member Danny Tillis

**Others Present:** City Manager Maryann Courson, City Clerk Stacy Tebo, and City Attorney Kurt Ardaman

**III. Public Participation For Any Issues Not On the Agenda**

Eugene Stump spoke about the possible relocation of City Hall to a building located adjacent to the DeBary Public Library. Mayor Rosamonda said that the City was pursuing the property.

Debra Wigley, representative for Deltona High School PTSA, asked the Council to donate to Project Graduation. Council Member Tillis made a motion to donate \$1,000 to Project Graduation. Council Member Fulton seconded. The motion carried unanimously.

**IV. Approval of Minutes**

1. Joint Workshop with School Board held March 23, 2005
2. Regular City Council Meeting held April 13, 2005

Motion to approve both the meeting and workshop minutes was made by Council Member Fulton. Council Member Carson seconded. The motion carried unanimously.

**V. Presentations**

1. Mayor Rosamonda read a Proclamation and presented it to Christopher Bove's parents for recognition of Christopher's military service in Iraq.

2. Mayor Rosamonda read a Proclamation and presented it to Sgt. Ralph Brown for his exceptional performance in saving a victim's life.
3. Mayor Rosamonda read a Proclamation and presented it to Deputy William Anderson for his exceptional performance in saving a victim's life.

## **IX. Old Business**

1. Request to Accept Maintenance of Terra Alta Retention Ponds

This item was continued from the regular meeting of April 13, 2005, in order to accurately identify the exact location and number of retention ponds. To accommodate the citizens present, Mayor Rosamonda moved up the item. City Manager Courson stated that back in 2000, there was a request from the Terra Alta Homeowner's Association for the City to take over the maintenance of the retention ponds; that the Council had denied that request, but had accepted maintenance of the roadways. She recommended that the Council accept the maintenance of the retention ponds except for the mowing. The two ponds identified were one at the end of Da Rosa Avenue and one on Florence Boulevard.

Marilyn Primo of Terra Alta came to the podium and asked the Council if they would remove the dead trees. Vice Mayor Gunter explained that tree removal would be considered maintenance of the ponds, and the City would take care of that.

Motion to accept maintenance of the two Terra Alta retention ponds was made by Council Member Tillis. Council Member Fulton seconded. The motion carried unanimously.

## **VI. Public Hearings**

*Members of the Council should disclose for the record the substance of any ex-parte communication that has occurred before or during the public hearings for the following items.*

1. Ordinance No. 07-05 – Second Reading – Amendment to DeBary Town Center MPUD Development Agreement

Mr. Ardaman read Ordinance No. 07-05 by title. Ms. Courson explained that this ordinance would correct a scrivener's error. Motion to approve Ordinance No. 07-05 was made by Council Member Tillis. Council Member Carson seconded. The motion carried unanimously.

2. Stewart Marchman Settlement Agreement and Rehearing Concerning the Appeal of a Zoning Regulation Interpretation

Mr. Ardaman explained the terms of the settlement agreement to the Council. Council Member Fulton requested that language be added to the agreement prohibiting overnight stays at the facility. Mr. Ardaman informed the Council that if they approved the settlement agreement with the adjustment that Council Member Fulton suggested, then they could move into the Public Hearing to determine if the use qualifies as a medical or professional office.

Vice Mayor Gunter questioned the meaning of the phrase “substance abuse and addiction services” contained within the agreement. Mr. Ardaman explained that the facility would treat any form of addiction.

Mayor Rosamonda entertained a motion to approve the settlement agreement with the adjustment to the language prohibiting overnight stays. Council Member Tillis made the motion to approve. Council Member Fulton seconded. The motion carried unanimously.

The Council then moved into the Rehearing concerning the Zoning Regulation Interpretation. Ms. Courson informed the Council that they would need to make an express finding that the facility is a permitted use in that PUD, and that the facility is a general or medical office use.

Neil Coppens came to the podium to ask if the Council was aware of the occupational license when it first came through or if they knew about it later. Mayor Rosamonda answered that the Council had been aware of the license at the time it was issued.

Mr. Ardaman stated that he would like to submit evidence to the Council for its consideration: City of DeBary Ordinance 05-99, the application for a Volusia County Occupational license by Stewart Marchman Center, Inc., the occupational license itself, the City of DeBary Land Development Regulations Section 106, the interpretation of Ordinance 05-99 by former City Manager Richard Diamond dated December 20, 2003, the license from Department of Children and Families to operate a non-residential outpatient program, transcript of City Council meeting held January 7, 2004, letter from Richard Diamond to Mary Robinson advising that City Council reversed the December 20, 2003 interpretation, and petitioner’s memorandum of fact and law in support of petitioner’s petitioner for writ of certiorari.

There being no further discussion, Mayor Rosamonda asked the Council if they were in favor. The Council unanimously approved the facility as a permitted use.

## **VII. Consent Agenda**

*Agenda Items marked with \* are considered routine matters or have been previously discussed by the City Council. All items will be considered by one motion unless removed from the Consent Agenda by a member of the City Council.*

- \*1. Resolution No. 05-09 – Establishing a Five-Year and Annual Plan for Use of Community Development Block Grant Funds
- \*2. Resolution No. 05-10 – Desire for Priority Project Status for the Saxon Boulevard Extension

Item number 3 was pulled by Council Member Tillis for discussion.

City Attorney Kurt Ardaman read the resolutions on the Consent Agenda by title.

Mayor Rosamonda entertained a motion to approve items 1 and 2. Motion was made by Vice Mayor Gunter. Council Member Carson seconded. The motion carried unanimously.

- \*3. Resolution No. 05-11 – Request for Vacation of Plat of St. John’s River Estates, Unit One – Daniel Boland and Michael Boland, applicants

Council Member Tillis voiced his concern regarding water retention in the subdivision. He asked if the request was submitted so that a house could be built. Ms. Courson said that these are private streets, so they would not be vacating a road, but vacating a plat; that the owner needs the space to build a large home; that subdivisions platted before 1985 have vested rights; that owners have a right to pull a building permit; and that the City cannot require stormwater retention. Mayor Rosamonda stated that it was a “buyer beware” situation with these subdivisions that were platted prior to concurrency.

Mayor Rosamonda entertained a motion to approve the request to vacate the plat. Motion made by Council Member Tillis and seconded by Vice Mayor Gunter. The motion carried unanimously.

### **VIII. Growth Management and Development Review**

- 1. Final Plat for DeBary Plantation Unit 19 Subdivision 04-S-FPL-0291

Ms. Courson explained that at the last meeting there were issues with the vegetative buffers on Holes 11 and 14. She said that since then, Mr. Van Auker, Development Coordinator for DeBary Estates Associates, Ltd., has committed to getting the landscaping in as soon as possible and was in the process of obtaining quotes. Mr. Van Auker further explained what he was doing to remedy the situation. Ms. Courson informed the Council that the letter from the County Forester stated that the vegetation must be in on the easements prior to the issuance of a C.O., meaning that as each house is completed the buffer will be installed on a piecemeal basis. Vice Mayor Gunter asked if there was a way to ensure that the buffer will be done on Hole 14. Mr. Van Auker answered that the County must do a tree final on every house prior to a C.O. being issued.

Mr. Ardaman noted that if Council approves the final plat, that condition five should be added that states the recorded documents contained in the title work will be added to the plat. Mayor Rosamonda entertained a motion to approve the final plat application for Unit 19 pursuant to meeting the conditions one through five, with five being that the recorded documents contained in the title work will be added to the plat. Vice Mayor Gunter made the motion and Council Member Fulton seconded. The motion carried unanimously.

- 2. Request by IHOP for a 15’ Pole Sign in Lieu of a Monument Sign

Ms. Anita Gonzalez explained to the Council that IHOP is not allowed to use the old 35 foot Shoney’s sign because the use was discontinued for 6 months, and the current sign code does not allow signs of that height; that a monument sign wasn’t feasible in this location; and that the new

pole sign must be at least 10 feet from the ground, no taller than 15 feet, with a copy area no larger than 48 square feet.

Ty Harris, attorney for IHOP, informed the Council that IHOP was looking into getting on the DOT blue signs on the interstate. Vice Mayor Gunter asked how tall the building is, and Council Member Tillis said it is approximately 24 feet tall. There was a discussion regarding the visibility of the old sign from traffic on I-4. Mayor Rosamonda asked if the approval was for IHOP or for the property. Ms. Courson said that it was for the property, and any future business would need the pole sign because of the lift station. Mr. Harris said that IHOP would be removing the old frame for the former Shoney's sign.

Council Member Fulton asked if the City could help with a letter of support for getting IHOP listed on the DOT blue sign. Mayor Rosamonda asked Mr. Harris to draft the letter and send it to Ms. Courson. Mayor Rosamonda entertained a motion to approve the pole sign. Council Member Fulton made the motion, and Council Member Tillis seconded. The motion carried unanimously.

## **X. New Business**

1. Request for Lot Exchange for Use by City for Stormwater Retention.

Ms. Courson explained the request by Mitch Koffsky and the locations of the lots involved. There was a discussion of the value of the lots and that the City's property was actually a double lot. Mr. Koffsky said he could provide the City with an easement, he would pay all the closing costs, and would kick in \$3,000. Mayor Rosamonda entertained a motion to approve the lot exchange of 227 DeBary Drive for one of the City's lots at 120 Floridana Road. Vice Mayor Gunter made the motion and Council Member Fulton seconded. Council Member Tillis asked for clarification of the easement. Mr. Koffsky said that 233 DeBary Drive was not wide enough, but he could give 20 feet at 228 Sunrise. The motion carried unanimously.

## **XI. For the Good of the Order (Routine Recurring Business)**

1. Board Committee Reports
2. Board/Committee Appointments
  - A. Commission:
    1. Charter Review Commission

Member Council Member Carson

Council Member Carson nominated Rusty Asble. Mayor Rosamonda entertained a motion to approve Mr. Asble. Motion was made by Council Member Carson. Council Member Fulton seconded. The motion carried unanimously.

Vice Mayor Gunter discussed the need for an updated application for advisory board members that would ask the applicant if he or she is a registered voter and if he or she is a member of any other boards. Council Member Tillis asked to receive a copy of the application before he votes. Mayor Rosamonda added that he would also like to see an applicant's job history listed on the application.

### 3. Member Reports/Communications

#### A. Mayor and Council Members

Mayor Rosamonda informed the Council that he has been meeting with the School Board regarding DeBary Elementary's traffic situation. He discussed various possibilities for alleviating the traffic such as using the Methodist Church as a drop off and shuttling those kids to the school, having more teachers on the drop off loop to educate parents, leasing three lots behind the school as a 2<sup>nd</sup> drop off near the recreation field, and busing in the 108 kids from DeBary Golf and Country Club. Ms. Courson told the Council that the 1999 traffic study needed to be redone, and the Council concurred. Council Member Tillis asked if the City could request an overhang to be added on the west side in the current drop off area. There was a discussion on the two-mile distance requirement for busing.

Council Member Tillis informed the Council of his activities over the past month and noted that he had attended the MPO meeting, and \$2.1 million for the Saxon extension is in the process of getting approved. He requested that Mr. Ardaman prepare a purchase agreement for the Rumors property with a possible lease back to the bar. There was a discussion regarding liability and maintenance issues if the City did lease it back to Rumors after purchasing it.

Vice Mayor Gunter informed the Council of his activities over the past month including attendance at meetings for the VFW, VCOG, and Summerhaven.

Council Member Carson said he had a few park issues to discuss. He asked if there would be a grand opening for Dinosaur Park, how many parking spaces there would be and if there would be a sign. Ms. Courson stated that parking would be an issue if they were to try and have a grand opening; that there are only three parking spaces and one handicap space; that the park needs to be renamed before a sign is erected; and that there will be a contest for the elementary school kids to rename the park.

Council Member Fulton stated there were some security concerns at Power Park and requested the installation of a shielded light. Ms. Courson said that she would get quotes on putting a light in at the rear of the park. Council Member Carson asked if a bike rack could be put in at that park.

#### B. City Attorney

Mr. Ardaman informed the Council that St. John's River Acres requested that the City establish a neighborhood improvement district for street lighting. There was a discussion regarding the long process required to accomplish the request, and Council determined that it was not feasible.

C. City Manager

Ms. Courson updated the Council on the John Deere project; that Mr. Costa had initially protested building the original size retention pond; and that he had since agreed to build the pond as Council approved. She also updated the Council on code enforcement at the Marina; that she had met with the manager of the campground; that the Marina has committed to a hook-up with the County sewer system; and that she recommended a compromise because there is a human factor that needs to be considered when dealing with the Marina. Mayor Rosamonda added that there were two sides being business and residence, and the business needs to deal with the ongoing sewage problems, including testing and cleanup. Vice Mayor Gunter noted that there are health and safety issues regarding the sewage and it is time to make the Marina resolve the problem.

Ms. Courson reminded the Council of the Tri-City Summit on Saturday, the City Council Workshop on May 18<sup>th</sup> and the River Cleanup on May 14<sup>th</sup>. She said that the Father and Daughter Dance at DeBary Elementary had been a success.

**XII. Adjournment.** The meeting adjourned at 9:37 p.m.

**APPROVED June 7, 2005  
CITY OF DeBARY  
CITY COUNCIL**

**Carmen Rosamonda, Mayor**

**ATTEST:**

**Stacy Tebo, City Clerk**