

City of DeBary
REGULAR CITY COUNCIL MEETING

Tuesday
July 6, 2005
7:00 PM

Florence K. Little Town Hall
12 Colomba Road
DeBary, Florida 32713

MINUTES

I. Call to Order

Mayor Rosamonda called the meeting to order at 7:02 p.m.

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, City Planner Anita Gonzalez, and Assistant City Attorney Dan Langley

III. Public Participation For Any Issues Not On the Agenda

Chris Bove, 423 Soft Shadow Lane, came forward to express his gratitude to the Council and the community for their support of the military and for the City's proclamation.

William Lambert, 387 Glen Abbey Lane, came forward to ask questions regarding the actions being taken regarding the retention pond on the 4th fairway in the Glen Abbey golf course. Mrs. Courson offered a short-term fix of a rear yard swale.

Robin Schmidt, 305 Alexandra Woods Drive, addressed the Council concerning the possible leaking at James Pond. Mrs. Courson stated that the City had obtained a proposal for a geotechnical investigation and evaluation of potential seepage through the berm from Devo Engineering.

Jeff Morosetti, 307 Alexandra Woods Drive, spoke to the Council further on the situation at James Pond. David Hamstra, Professional Engineering Consultants, stated that he could begin on the investigation immediately if approved by the City Council. Mayor Rosamonda entertained a motion to approve the proposal from Devo Engineering at the cost of \$10,700. Motion made by Council Member Fulton and seconded by Council Member Tillis. The motion carried unanimously.

Maureen Pallasch, 7 Monroe Avenue, asked the Council if they were considering placing a fire station at 4 Sanford Avenue and if the City was looking to purchase property in that location. Mayor Rosamonda answered that the City was not planning on building a fire station. Council Member Tillis stated that the City was currently investigating all possibilities for land purchase along the 17-92 corridor.

Adrian Marks, 223 Buena Vista Street, addressed the Council concerning law enforcement services and his desire for the City to have their own police force.

Gene Stump, 106 Birkwood Court, asked the Council about the drain line on 17-92 near Winn Dixie. Mrs. Courson answered that the City cannot physically alter the structure because it belongs to DOT. She said that there would be a ramp built over the hose on Thursday.

Doug McCain, 61 S. Highway 17-92, stated that he had witnessed a disabled person trying to cross over the hose that Mr. Stump had discussed.

Karen Clark of Glenwood addressed the Council on the Universal Tag program and asked them to reconsider their prior decision. Mayor Rosamonda stated that the Council did not want to bring this item back on the August agenda.

IV. Approval of Minutes

1. Regular City Council Meeting held June 7, 2005.
2. Special Meeting held June 8, 2005.
3. City Council Workshop held June 22, 2005.

Motion to approve both the meeting and workshop minutes was made by Vice Mayor Gunter. Council Member Tillis seconded. The motion carried unanimously.

V. Presentations

1. Mayor Rosamonda Presentation to Elaine Swanson

Mrs. Swanson was unable to attend the meeting, and the presentation was postponed until a later time.

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 #06-05 – Second Reading - Stormwater Provisions for New Construction.

Mr. Langley read Ordinance #06-05 by title and noted that there should be a minor change in wording. Mayor Rosamonda entertained a motion to approve Ordinance #06-05 with the change discussed by Mr. Langley. Motion was made by Vice Mayor Gunter. Council Member Fulton seconded. The motion carried unanimously.

2. Ordinance #08-05 – Second Reading - Amending the Future Land Use Map of the City for One Lot Located on Angeles Road from Residential / Low Density to Commercial Office – Applicant Doug Holly.

Mr. Langley read Ordinance #08-05 by title. Mayor Rosamonda entertained a motion to approve Ordinance #08-05. Council Member Fulton made a motion to approve. Council Member Tillis seconded. The motion carried unanimously.

3. Ordinance #09-05 - Second Reading - Rezoning One Lot from R-4, Urban Single Family, to B-4, General Commercial, File No. D-05-005 – Applicant Doug Holly.

Mr. Langley read Ordinance #09-05 by title. Scott Ashley, Volusia County Planning Manager, stated that the purpose of the rezoning was to provide consistency with the commercial land use; that the lot would contain a small retention swale and landscape buffer because it abuts a residential zone; and that there would be no commercial improvements on the lot.

Mayor Rosamonda entertained a motion to approve Ordinance #09-05. Motion was made by Council Member Tillis. Council Member Fulton seconded. The motion carried unanimously.

4. Ordinance #10-05 – Second Reading - Expansion of DeBary Plantation Streetlighting District to Include Units 16A-3, 16C-1, 16C-2 & 16C-3.

Mr. Langley read Ordinance #10-05 by title. Mrs. Courson explained that the ordinance would expand the current streetlighting district. Mayor Rosamonda entertained a motion to approve Ordinance #10-05. Motion was made by Vice Mayor Gunter. Council Member Tillis seconded. The motion carried unanimously.

5. Ordinance #12-05 – First Reading – Amending the Future Land Use Map of the City for Two Lots Located on Cunningham Lane from Agricultural/Rural Residential to Residential/Low Density – Applicant John Baker.

Vice Mayor Gunter made a motion to adjourn and convene as the Land Planning Agency. Council Member Fulton seconded. Mr. Langley read Ordinance #12-05 by title. Ms. Gonzalez explained the request to the Council.

John Baker, 9 Cunningham Lane, said he had a contract to sell the property to a custom builder to construct two to three homes. Ms. Gonzalez stated that the change would allow four dwelling units per acre and that the current land use allows one dwelling per five acres. Mayor Rosamonda expressed his concern regarding changing the land use to residential low density because it could open the door for a large number of homes to be built at four units per acre.

Mrs. Courson suggested that the item be tabled until August so that the City Attorney can research the comprehensive plan to determine if the City can enter into an independent agreement. Mr. Baker stated he would be willing to enter into a development agreement.

George Coleman, 286 Deleon Road, informed the Council that the area in question is mainly one acre per dwelling.

Motion was made by Vice Mayor Gunter to table until August 3rd. Council Member Tillis seconded. The motion carried unanimously.

6. Request for Variance to Reduce Landscape Buffer Width and to Reduce Parking Space Width, File No. D-05-006 – Owner First Community Bank

Mr. Ashley explained the variance requests and his recommendation to the Council. Mrs. Courson recommended that the ten-foot landscape buffer request be approved, but that the reduced parking space width request be denied.

Vice Mayor Gunter made a motion to deny the request to reduce the width of the parking spaces. Council Member Fulton seconded. The motion passed 4-1, with Council Member Tillis dissenting.

Vice Mayor Gunter made a motion to approve the variance for a ten-foot landscape buffer in lieu of the required thirty-foot buffer. Council Member Tillis seconded. The motion carried unanimously.

7. Ordinance #13-05 – First Reading – Rezoning from B-5, Heavy Commercial, to BPUD, Business Planned Unit Development, File No. D-05-007 – Owner Builder's Edge LLC.

Mr. Langley read Ordinance #13-05 by title. Mr. Ashley explained the rezoning request and staff recommendation. Mayor Rosamonda entertained a motion to approve Ordinance #13-05. Motion made by Council Member Carson and seconded by Council Member Fulton. The motion carried unanimously.

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. Approval of Lease Amendment with State of FL for Gateway Park.
- *2. Request for Final Site Plan Application Approval for Springview Industrial Park, Unit 1, Lot 2, 05-F-FSP-0346.

- *3. Request for Release of Subdivision Maintenance Agreement for Springview Unit 1, Subdivision Final Plat, 99-S-FPL-0089.
- *4. Request for Release of Subdivision Maintenance Agreement for Springview Units 2, 3, and 4, Subdivision Final Plat, 99-S-FPL-0095, 99-S-FPL-0096 & 99-S-FPL-0097.
- *5. Request for Release of Subdivision Maintenance Agreement for Springview Unit 5, Subdivision Final Plat, 99-S-FPL-0316.
- *6. Request for Release of Subdivision Maintenance Agreement for Springview Unit 6, Subdivision Final Plat, 01-S-FPL-0405.
- *7. Request for Release of Subdivision Maintenance Agreement for Springview Unit 7, Subdivision Final Plat, 01-S-FPL-0406.
- *8. Request for Release of Subdivision Maintenance Agreement for Springview Industrial Park Unit 1, Subdivision Final Plat, 00-S-FPL-0298.
- *9. Request for Release of Subdivision Maintenance Agreement for Springview Industrial Park Unit 2, Subdivision Final Plat, 00-S-FPL-0299.
- *10. Request for Final Site Plan Application Approval for Springview Industrial Park, Unit 2, Lot 19, 05-F-FSP-0060.
- *11. Ordinance #14-05 – First Reading - Vacating a Drainage & Utility Easement, DeBary Plantation, Unit Fifteen.
- *12. Ordinance #11-05 – First Reading - Amending Ordinance #94-36 by Providing for Two Additional Code Enforcement Board Alternates.
- *13. Request for a One-Year Extension of the Final Site Plan Development Order for Springview Industrial Park, Unit 1, Lot 7, 03-F-FSP-0414.

Mr. Langley asked to withdraw Ordinance #14-05 to ensure that it is not in conflict with F.S. 162.05. Vice Mayor Gunter thanked Mr. Rasmussen, developer of Springview, for all his cooperation, especially during the 2004 hurricane season.

The copy of Ordinance #14-05 was not in the packet for Mr. Langley to read, so item number eleven was pulled to be discussed later in the meeting after a copy had been obtained from City Hall. Vice Mayor Gunter made a motion to approve the consent agenda except for items eleven and twelve. Council Member Fulton seconded. The motion carried unanimously.

VIII. Growth Management and Development Review

None

IX. Old Business

1. Letter of Credit, Resolution No. 05-14 and Resolution No. 05-15 and Bond Counsel Agreement.

Bill Spivey, financial advisor with Kirkpatrick Pettis, outlined the RFP process and the selection of RBC Centura to provide financing. Vice Mayor Gunter asked the difference between DBCC Foundation and DBCC; questioned why the \$450,000 check was made out to the Foundation instead of to DBCC; and expressed concern that the interlocal agreement was with DBCC, and not DBCC Foundation.

Mr. Langley read Resolution No. 05-14 and Resolution No. 05-15 by title. Mayor Rosamonda entertained a motion to approve both resolutions. Motion made by Council Member Tillis and seconded by Council Member Fulton. Vice Mayor Gunter stated he would like to table the item until the August meeting due to the amended documents being given to the Council at the meeting.

Mr. Langley stated that the changes made by his office related to form. Mike Watkins, of Greenberg Traurig, stated that the changes made to the Bond Counsel Agreement were for clarification only.

Mrs. Courson suggested that the information relating to the DBCC Foundation could be obtained prior to the meeting on July 20th and discussed then. Council Member Fulton withdrew his second on the approval of the resolutions.

Mr. Watkins recommended that Council approve Resolution No. 05-14, because it outlines the City's intent to be reimbursed. Council Member Tillis made a motion to approve Resolution No. 05-14. Vice Mayor Gunter seconded. The motion carried unanimously. There was a consensus that the other items would be discussed at the meeting on July 20th.

VII. Consent Agenda

11. Ordinance #14-05 – First Reading - Vacating a Drainage & Utility Easement, DeBary Plantation, Unit Fifteen.

Mayor Rosamonda entertained a motion to approve Ordinance #14-05. Motion made by Vice Mayor Gunter and seconded by Council Member Carson. The motion carried unanimously.

IX. Old Business

2. Generators for Sheriff's Substation and City Hall.

Vice Mayor Gunter asked if the lease required any improvements made by the City to stay with the building. Council Member Tillis stated he wanted to know what the lease said prior to voting on the issue. Mayor Rosamonda entertained a motion to approve \$8,039 for the installation of a generator at City Hall only. Vice Mayor Gunter made a motion to approve, and Council Member Tillis seconded. The motion carried unanimously.

X. New Business

1. Florida League of Cities Voting Delegate – 79th Annual Conference.

Council Member Fulton made a motion to nominate Council Member Tillis as delegate. Council Member Carson seconded. The motion carried unanimously.

2. Saxon Woods Stormwater System Agreement.

Mrs. Courson explained that the agreement is an attempt to rectify all the stormwater related issues associated with Saxon Woods. Mr. Hamstra explained that several of the bleed down devices could not be located and that the homeowner's association needs to remedy the situation immediately.

John Wilson, 114 Pine Valley Court, addressed the Council concerning accountability for the problems associated with the stormwater at Saxon Woods.

Mr. Langley stated that the purpose of the agreement is for the homeowner's association to fix the problems. He suggested modifying the commencement date and providing a completion date in the agreement. Council Member Tillis stated that he would like to see a timetable for completion. Mr. Hamstra estimated that the improvements could be done within ten days. Mayor Rosamonda recommended that the Association be given thirty days to complete the repairs.

Mayor Rosamonda entertained a motion to approve the Agreement with a completion date of August 5, 2005, that there be a status report by the Association at the July 20th meeting, and that PEC will inspect the work as it is completed. Motion made by Vice Mayor Gunter and seconded by Council Member Fulton. The motion carried unanimously. Mayor Rosamonda asked Mrs. Courson and the City Attorney to review all possible liable parties in the Saxon Woods project.

Van Conoley, 25 Rosedown Boulevard, addressed the Council regarding his desire for the City to take legal action against those responsible for the deficiencies at Saxon Woods.

3. Purchase of Additional Mower

Mrs. Courson explained the need for the additional mower and that the purchase would reduce the crew's mowing time by 1/3. Council Member Carson made a motion to approve the purchase. Council Member Tillis seconded. The motion carried unanimously.

4. Request for Funding Assistance for Music on the Green Series – Citizens for DeBary

Mayor Rosamonda entertained a motion to approve the request. Motion made by Council Member Tillis. Council Member Fulton seconded. The motion carried unanimously.

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

1. Board Committee Reports
2. Board/Committee Appointments
 - A. Board:
 1. Code Enforcement Board
Member Council Member Fulton

Council Member Fulton made a motion to reappoint Jack Lenzen to the Code Enforcement Board. Vice Mayor Gunter seconded. The motion carried unanimously.

2. Code Enforcement Board
Member Council Member Carson

Council Member Carson requested that his appointment be postponed until the August meeting.

- B. Committee
 1. Streetscape Committee
Member Mayor Rosamonda

Mayor Rosamonda nominated Susan Preil to the Committee. Vice Mayor Gunter seconded the nomination, and the motion passed unanimously.

3. Member Reports/Communications

A. Mayor and Council Members

Council Member Tillis said that aside from attending MPO and VCOG meetings, he has been trying to help out staff as he can.

Vice Mayor Gunter suggested placing a notebook with a copy of the entire agenda packet at the desk in the rear of Town Hall during meetings for citizens to peruse. He also noted that August 8th would be the first meeting of the Volusia County Charter Review Committee.

Council Member Carson informed the Council that the stage for Gemini Springs would be on the County's agenda for July 7th.

Mayor Rosamonda told the Council that he had a meeting with the mayors of Deltona and Orange City regarding the creation of a MSD (Municipal Services District), particularly in the area of fire services. There was a general consensus from the Council that they were interested in getting further information on a possible MSD.

Mayor Rosamonda informed the Council that the drop off area at DeBary Elementary School would be larger; that there was discussion with the School Board for a dedicated bus for DeBary Plantation; that there was also discussion of a possible drop off at the Methodist Church with a shuttle to bring those kids to the school; and that the School Board wants to share the costs with the City. Vice Mayor Gunter said he felt it was appropriate as it is a safety issue on Highbanks Road. There was consensus from the Council that they were interested in partnering with the School Board.

B. City Attorney

C. City Manager

Mrs. Courson brought the Council up to date on the status of the numbers and placement of pumps.

Mrs. Courson informed the Council that she spoke with the City Attorney regarding Unit 21 at DeBary Golf and Country Club; that she intended to seize the maintenance bond; and that she has a meeting with Roger Van Auker on Thursday. Mayor Rosamonda told Mrs. Courson if she was not satisfied with the outcome of the meeting, then the whole subdivision could be shut down. There was no objection from the Council to the Mayor's directive.

XII. Adjournment. The meeting adjourned at 11:02 p.m.

**APPROVED August 3, 2005
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Stacy Tebo, City Clerk