

City of DeBary
SPECIAL CITY COUNCIL MEETING

Wednesday

November 30, 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 7:00 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: Assistant City Manager Anthony Gonzalez, Assistant City Attorney Dan Langley, and Planning Administrator Anita Gonzalez

Mayor Rosamonda announced that David Hamstra of PEC would update the Council on the status of Saxon Woods prior to hearing the first item on the agenda for the evening. Mr. Hamstra recommended that the City issue a certified letter to Morrison Homes to demand that unresolved issues be brought into compliance within ten days. There was Council consensus that the City issue the letter, and the City Manager should be authorized to shut the entire project down if compliance is not met within ten days.

III. Growth Management and Development Review

1. Settlement and Mortgage Agreement with Todd Alan Duvall and Panagiota Kaye Duvall.

Mr. Langley explained the proposed settlement and mortgage agreement and gave the Council background information on the code enforcement cases. Mr. Langley stated that both he and the City Manager recommend approval of the settlement for cost avoidance purposes.

David Abeles, attorney for the Duvalls, informed the Council that the closing for the homestead property at 40 Smyrna Drive is scheduled for December 15th, and that they would pay the City on or before December 22nd.

Mr. Langley said that he instructed the Volusia County Sheriff's office to hold the assets seized from Mr. Duvall until the payment has been made to the City.

Council Member Tillis stated that he believed it was in the City's best interest to take the settlement and made a motion to approve the settlement and mortgage agreement. Vice Mayor Gunter seconded. Council Member Fulton said he would like to place a contingency in the agreement that would nullify it, if it was found that Mr. Duvall had perjured himself in the interrogatories. Mr. Langley advised against it, and stated that if the deal fell through, and the City did not receive the payment, they would still be in a better position than if the City had never approved the agreement. The motion carried 4-1, with Council Member Fulton dissenting.

IV. Public Hearing

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. Appeal of Zoning Regulation Interpretation – Highbanks Marina, Mark Watts, attorney for owner.

Ms. Gonzalez said that in March 2005, Ms. Courson became aware of the County's policy interpretation that allows temporary additions to recreational vehicles and campers, and she asked the County to cease the practice of using the interpretation in DeBary. Ms. Gonzalez stated that the intent of the interpretation was to allow the use of a deck, awning or something that could be removed.

Mr. Langley informed the Council that because the hearing is a quasi-judicial matter, the Council is required to take testimony under oath. Mayor Rosamonda asked everyone wishing to speak on the matter including Ms. Gonzalez, David Curry, Richard Brown, John Cumberlandge, and Terry Cumberlandge to stand and be sworn in. Mr. Gonzalez swore in all who intended to testify. Ms. Gonzalez affirmed that her previous testimony was the truth.

Mark Watts, attorney for Mr. Bauerle, asked the Council if, under the existing special exception for Highbanks Marina and Campground, may temporary structures such as screen rooms and sheds, be permitted as accessory structures on individual lots. He referenced a memorandum written by Dale Arrington, Volusia County Zoning Coordinator in 1989, which states that temporary structures are allowed on individual spaces within RV parks, if they can be removed without demolition for reuse elsewhere.

Mr. Watts stated that there are four reasons he believes the Council should allow temporary structures to be permitted. He said that up until March, the residents would have been able to apply for permits on the temporary structures; that he cannot clear the code enforcement cases until the question is answered by the Council; that the Florida Administrative Code's definition of a "Recreational Vehicle Space" allows for temporary structures such as screened rooms or storage sheds; and that the change of the interpretation was improperly done with a letter, rather than by changing the code in a formal process.

Mayor Rosamonda expressed his desire to see the leases that the residents have signed. David Currey, park manager of 488 W. Highbanks Road, answered that the park does not have leases with the residents, and that they are there on a month-to-month basis. Mr. Currey stated that

there are 218 spaces, of which 37 are reserved for transients. He added that the rest of the spaces are for more long-term residents, and those residents reside in campers or park models. Mayor Rosamonda said that for tax purposes, the State defines temporary as less than six months and permanent as anything longer than six months.

Richard Brown, 488 W. Highbanks Road, gave the Council some history of the campground since he had served as its manager for 18 years and lived there for 21 years. He stated that there are currently 44 park models, of which the campground owns one.

Terry Cumberledge, 24 River Bluff Trail, asked the Council to turn down the appeal from Mr. Watts. She passed out a copy of the original approved site plan with pictures of three sites at the campground. She expressed her concern regarding the setback violations and questioned how the number of spaces has increased from the approved number of 208.

John Cumberledge, 24 River Bluff Trail, asked the Council to deny the appeal.

Mayor Rosamonda stated that the definitions of various terms discussed need to be clarified before he makes a decision, and that he is not convinced that Highbanks Marina is operating as an RV park due to the majority of the residents staying there over six months. Council Member Fulton questioned whether the room additions have increased the overall square footage of each RV, such that they would no longer be considered an RV due to the size. Mayor Rosamonda asked staff to poll other municipalities to determine if they allow temporary structures in RV parks, the circumstances under which they might, the definitions that they use, and any other relevant information. Mayor Rosamonda questioned how the Council's action on the appeal would affect the mobile homes in the rest of the City.

Vice Mayor Gunter said that he is not sure that answering Mr. Watts question will resolve the issue. Mayor Rosamonda said that the Council has six questions they need the answers to before they can make a decision. Council Member Tillis requested additional information on the docks at the marina, and if they are considered permanent.

Mr. Watts asked the Council to table the matter to a time certain in January. Mayor Rosamonda entertained a motion to table the appeal until January 4, 2006. Motion made by Vice Mayor Gunter and seconded by Council Member Fulton. The motion carried unanimously.

V. Adjournment. The meeting adjourned at 9:30 p.m.

**APPROVED January 4, 2006
CITY OF DeBARY
CITY COUNCIL**

George Coleman, Mayor

ATTEST:

Stacy Tebo, City Clerk