

City of DeBary
REGULAR CITY COUNCIL MEETING

Wednesday

December 7, 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 7:05 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, Planning Administrator Anita Gonzalez, Parks & Recreation Director John Fletcher, Finance Administrator Jimmie Seelbinder, and City Attorney Kurt Ardaman

III. Presentations

1. Presentation of Hurricane Relief Concert Proceeds to American Red Cross – Mike Miller, Financial Development Director. Arrangements for the concert made by DeBary Resident Stuart Scott and by the City of DeBary.

Mayor Rosamonda stated that the event raised \$2,005.35 for the Red Cross and presented the check to Mr. Miller. Mr. Miller thanked the City for the donation and the kindness shown by the community.

2. Gerald Lombardi, Chairman of the DeBary Historic Preservation Advisory Board Ken Webster spoke to the Council on behalf on the Board due to Mr. Lombardi's laryngitis. He said the historical calendar was the Board's main focus of 2005, and he presented the first copies of the calendar to the Council. Mr. Webster informed the Council that they also began cataloging the collection of historic data and established a file system. Mayor Rosamonda thanked the Board for the calendars and the work they did to create it.

3. Don Kitner, Vice-Chairman of the DeBary Economic Development Advisory Committee

Mr. Kitner highlighted the Committee's activities for 2005, noting that they held a business forum in the spring for DeBary business owners and compiled a database of all commercial and industrial properties in the City, which is listed on the website. For 2006, he said the Committee would hold another business forum, prepare grant revisions to the beautification program, and create an economic development brochure for the public.

4. John Harvey, Chairman of the DeBary Public Safety Advisory Committee

Mr. Harvey said that during 2005, the Committee prepared an outline to the emergency and disaster management program, explored the need for a possible ordinance regarding the discharge of firearms in the City, monitored day-to-day safety activities, and explored the possibility of a traffic light at I-4 and Dirksen Drive. He stated the Committee recommended that all City vehicles have a roof mounted yellow flasher bar for visibility, with the addition of a strobe-type 4-way flasher, a fire extinguisher, and have their current first aid kits replaced with DOT approved first aid kits. Vice Mayor Gunter asked if the Committee had discussed defibrillators. Mr. Harvey answered that they had not, but he would like to add that to their list of recommendations.

IV. Public Participation For Any Issues Not On the Agenda

Ernest Senez, 3001 Annez Way, addressed the Council regarding his concern with Enterprise Cove Apartments hooking into the stormwater system at the Landings of Summerhaven. He informed the Council that at a recent Orange City Council meeting, it was stated that DeBary had approved a use permit for the developer to run the overflow from his stormwater system into DeBary's stormwater system. Ms. Courson answered that the City has not received a use permit request from the developer. Mayor Rosamonda said that the City should issue a letter to the City of Orange City and to St. Johns River Water Management District stating the City of DeBary has not issued a use permit to allow the overflow of stormwater, and the City requests all relevant information regarding the matter be forwarded to staff.

Norm Erickson, 15 Azalea Drive, asked the status of the water quality testing on Lake Marie. Ms. Courson responded that the testing showed no problems with the water quality. She noted that a local water expert with the University of FL informed her that it is not unusual for a fish kill to happen as a result of three consecutive cloudy days. She added that staff would continue testing to establish a baseline for the lake.

V. Approval of Minutes

1. Regular City Council Meeting held November 2, 2005.

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

Mayor Rosamonda asked the Council members to hear the Fire Services item under New Business, prior to the commencement of the public hearings. There was no objection from the Council.

X. New Business

6. Resolution # 05-39 - To Complete Strategic Plan for Fire Services and to Pursue Opportunities to Construct New Fire Station – Mayor Rosamonda.

Mayor Rosamonda explained the resolution to the Council and stated that it represents a long-term commitment from the City for the planning of fire services. He added that the donation of the lots adjacent to Town Hall from Volusia County for the construction of a new city hall is contingent upon the City approving Resolution #05-39.

Mr. Ardaman read Resolution #05-39 aloud by title. Mayor Rosamonda entertained a motion to approve. Motion made by Council Member Tillis and seconded by Council Member Fulton. 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 #17-05 – Expansion of DeBary Plantation Streetlighting District to Include Units 13B-2 and 13C-2, Second Reading.

Mr. Ardaman read Ordinance #17-05 aloud by title. Mayor Rosamonda entertained a motion to approve. Motion made by Vice Mayor Gunter and seconded by Council Member Tillis. The motion carried unanimously.

2. Ordinance #18-05 – First Reading – Rezoning from A-2, Rural Agriculture, and RC, Resource Corridor, to RPUD, Residential Planned Unit Development, File No. D-05-013 – Owner, Empire Cattle, Ltd. **CONTINUED FROM NOVEMBER 2, 2005.**

Mayor Rosamonda informed the Council that Mr. Costa requested that the Council discuss the various issues associated with the rezoning, and postpone the first reading until the January meeting. Mayor Rosamonda invited Mayor-Elect Coleman and Council Member-Elect Lenzen to the dais so that they might ask questions regarding the rezoning.

Mark Watts, attorney for Empire Cattle, Ltd., summarized the proposed project for the Council and noted that it is consistent with the City's comprehensive plan. Mr. Watts discussed right-of-way issues that need to be resolved regarding road width on Ft. Florida road, as well as school board planning issues that are also in the process of being worked out.

Grant Renny, traffic engineer for Empire Cattle, Ltd., spoke to the Council regarding the traffic study done on Ft. Florida Road. He stated that the new AM wait time would be twelve seconds after the new development is built, as opposed to the current AM wait time of ten seconds.

Council Member Tillis expressed his concern regarding the development causing a bottleneck in traffic and the blockage of wildlife traveling to Gemini.

Gertrude DeSantis, representative of the Meadowlea Improvement Association, stated that the residents are very concerned with the extra traffic and stormwater associated with the new development.

Kathleen Kuehne, 138 Pinetree Drive, voiced her concern regarding the trains that are usually 100 to 200 cars in length creating traffic jams on 17-92.

Phil Toney, 53 Fern Drive, stated he was very worried about the runoff from the new development into the pristine St. Johns River. He said that the river is designated as an American Heritage River, and allowing the runoff of stormwater from the new development would pollute the river.

Carole Pearson, 129 Oak Tree Drive, emphasized the additional traffic that could be generated if a new school is built. She said that she is concerned with retention ponds failing, and the weakening of Lake Konomac if the road is widened.

Anthony Panzino, 792 Ft. Florida Road, said that he bought his property before he knew about the proposed development. He informed the Council that he is building a \$1.2 million home on five acres, and if the Council approves the new development, it will decrease his property value.

Mary Kotecki, 105 Moss Drive, stated that she has lived in Meadowlea since 1972, and she has always believed that the surrounding area owned by Empire Cattle is wetlands and a natural habitat for wildlife.

Debbie Brandt, 157 Oak Tree Drive, said that the City needs to be concerned with preserving the aquifer; that filling wetlands will cause flooding in Meadowlea; that the development will deny Meadowlea residents their right to peaceful enjoyment; and that if a wall is built around the development, it will put Meadowlea residents in danger due to ingress / egress issues.

Mayor Rosamonda entertained a motion to continue Ordinance #18-05 until January 4, 2006, at 7:00 p.m. Motion made by Council Member Tillis and seconded by Council Member Fulton. The motion carried unanimously.

3. Ordinance #19-05 – First Reading --- Small Scale Future Land Use Map Amendment to the City Comprehensive Plan for a portion of ten lots located on the south side of Magnolia Place from Environmentally Sensitive Lands (ESL) to Residential/ Low Density by Mr. Cy Holley.

Mr. Ardaman read Ordinance #19-05 aloud by title. Mayor Rosamonda suspended the public meeting and opened the meeting of the Local Planning Agency. Ms. Gonzalez briefly outlined the request.

Cy Holly, property owner, said that the four proposed homes would contain a minimum floor area of 2500 square feet and would range in price from \$800,000 to one million dollars each. He added that there would be deed restrictions to prohibit sheds and pools in the wetland areas, and that they would be giving a drainage easement to the City.

Mayor Rosamonda entertained a motion to recommend approval and to send it to the City Council. Motion made by Vice Mayor Gunter and seconded by Council Member Fulton. The motion carried 4-1, with Council Member Tillis dissenting.

Mayor Rosamonda closed the meeting of the Local Planning Agency and reopened the public hearing of the City Council. Mr. Ardaman read Ordinance #19-05 aloud by title.

Vice Mayor Gunter asked Council Member Tillis why he voted against the item. Council Member Tillis answered that the area is already wet, and he would like to see water and sewer installed rather than septic tanks and wells. Council Member Fulton said the front area is dry where Mr. Holly is proposing to build.

Mayor Rosamonda entertained a motion to approve Ordinance #19-05. Motion made by Vice Mayor Gunter and seconded by Council Member Fulton. The motion carried 4-1, with Council Member Tillis dissenting.

4. Ordinance #21-05 – First Reading – Rezoning from B-5, Heavy Commercial to BPUD, Business Planned Unit Development, File No. D-05-014 – Owner, Riverside Partners LLC. **TO BE CONTINUED TO JANUARY 4, 2006.**

Mayor Rosamonda entertained a motion to continue Ordinance #21-05 until January 4, 2006, at 7:00 p.m. Motion made by Vice Mayor Gunter and seconded by Council Member Carson. The motion carried unanimously.

5. Ordinance #22-05 – First Reading – TRANSMITTAL HEARING – Large Scale Future Land Use Map Amendment to the City Comprehensive Plan for approximately 18 acres located on the west side of US Hwy 17-92, south of DeBary Plantation Blvd.

Mr. Ardaman read Ordinance #22-05 aloud by title. Mayor Rosamonda closed the public hearing and opened the meeting of the Local Planning Agency of the City of DeBary. Ms. Gonzalez gave a brief overview of the request to change the land use to residential / medium density and stressed that the hearing is solely to determine whether the request should be transmitted to the State.

Mayor Rosamonda asked if a conflict exists between the PUD and the comprehensive plan for the property. Ms. Courson answered that there is a conflict; that the previous city manager processed administrative comprehensive plan amendments, which changed the land use from commercial / retail to single family residential; and that the approved PUD is consistent with the applicant's request. Ms. Gonzalez added that the approved development agreement does allow the applicant to request up to sixteen units per acre.

Darren Elkind, attorney for Southland Homes, stated that his client has stressed to his design team that they remain sensitive to the concerns of the residents on Beacon Club Drive, that they preserve the open space, and that the development should look very good from 17-92.

Mayor Rosamonda advised Mr. Elkind that they should meet with the homeowner's association.

Eugene Stump, 106 Birkwood Court, said that he did not believe that the property is viable for the proposed project due to existing water problems.

Mayor Rosamonda entertained a motion of the Local Planning Agency to recommend to the City Council the transmittal of the amendment to the Department of Community Affairs. Motion made by Council Member Fulton and seconded by Council Member Tillis. The motion carried unanimously.

Mayor Rosamonda closed the meeting of the Local Planning Agency and reopened the public hearing of the City Council. Mr. Ardaman read Ordinance #22-05 aloud by title. Mayor Rosamonda entertained a motion to approve Ordinance #22-05 on first reading. Motion made by Council Member Fulton and seconded by Council Member Carson. 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 are considered by one motion unless removed from the Consent Agenda by a member of the City Council.*

- *1. None.

VIII. Growth Management and Development Review

1. Extension of Site Plan approval for River City Car Wash 04-F-FSP-0353

Ms. Gonzalez explained the extension request to the Council. Doug Holly, property owner, explained that the reason for the extension was because the property was under consideration as a possible city hall site. Mayor Rosamonda entertained a motion to approve the extension request. Motion made by Council Member Fulton and seconded by Council Member Tillis. The motion carried unanimously.

2. Waiver of Code Enforcement fines for property located at 150 Margarita Road by Mr. Jose Luis

Ms. Gonzalez stated that the Code Enforcement Board (CEB) heard the request at their November meeting and recommended that the lien be reduced to the actual staff costs of \$502.23. Council Member Fulton asked if anyone from code enforcement staff or the CEB was present to answer questions regarding the case. Ms. Courson gave the Council a synopsis of the case regarding building without permits. Council Member Fulton stated that he wanted to know if the owner contacted staff throughout the course of the case, and if he cooperated. Council

Member-Elect Lenzen, former CEB member, answered that the owner did correspond with Tom Reynolds of Volusia County and did make an effort to correct the violation.

Jose Luis, property owner, explained the events that led to the code enforcement case. He said that he had medical and financial issues that prevented the resolution of the case, including his shoulder surgery and a judgement that was placed on his record erroneously. He stated that due to the judgement, he was unable to refinance the property to complete the repairs. He added that the hurricanes of 2004 also damaged his home.

Vice Mayor Gunter made a motion to uphold the CEB's recommendation and reduce the lien to \$502.23, to be paid within thirty days. Council Member Fulton seconded. The motion carried unanimously.

IX. Old Business

1. None.

X. New Business

1. Discussion of Conference Center Operating Agreement

Ms. Courson informed the Council that Deltona and Orange City approved the operating agreement, but it needs to be amended. She said that the Chamber of Commerce and DBCC requested that the City table the item until the revised final agreement becomes available. Mr. Ardaman suggested that they have a staff meeting regarding changes in the agreement prior to it going on each of the cities' agendas for approval.

Leonard Marks, 32 Wisteria Drive, gave the Council a verbal account of the timeline of the events associated with the Conference Center. He asked that the City reconsider its participation.

John Likakis, 38 Seminole Drive, agreed with Mr. Marks and said that the Conference Center would not benefit the taxpayers of DeBary.

Norm Erickson, 15 Azalea Drive, asked for clarification of the agreement. Council Member Fulton explained that there is an interlocal agreement and an operations agreement. Mr. Erickson said that he believed the project is a money pit.

2. DeBary Little League Agreement Renewal

Council Member Tillis said he would like to have further information on the financial statements of the Little League and more time to review them. Mayor Rosamonda, Council Member Carson, and Council Member Fulton agreed that they believed the financial statements do not have a bearing on the contract. The Council discussed the concession stand and the current operating procedures with John Fletcher, Parks and Recreation Director.

Danny Allen, 140 Ft. Florida Road, explained the events that occurred with the Little League when they discovered that funds were missing.

Mayor Rosamonda entertained a motion to approve the agreement. Motion made by Council Member Carson to approve the agreement as written plus Exhibit 1, the Coca-Cola Agreement. Vice Mayor Gunter seconded. The motion carried unanimously.

3. City of DeBary Parks & Recreation Department Proposed Fee Schedule

Mr. Fletcher explained the fee schedule to the Council.

Chris Breen, 951 Old Deland Road, spoke to the Council regarding his desire for the AAU to have equal time on the fields as the Little League. Mayor Rosamonda stated that because Little League is comprised of DeBary citizens only, they will always get priority over the other leagues. Mr. Fletcher explained that the Little League is responsible for providing a schedule to the City at the beginning of the season, and then the remaining times can be permitted by the Parks & Recreation Department on a first-come, first-serve basis.

Mayor Rosamonda entertained a motion to approve the fee schedule. Motion made by Council Member Carson and seconded by Council Member Tillis. The motion carried unanimously.

4. Replacement of Playground Equipment for Power Park

Mayor Rosamonda entertained a motion to approve Rep Services, Inc. to provide the replacement of the equipment. Motion made by Council Member Fulton and seconded by Council Member Carson. The motion carried unanimously.

5. Authorize contract with Far Reach Technologies, Inc. for Live Stream Audio and Video for City Council Meetings

Finance Administrator Jimmie Seelbinder explained that the service would cost the city \$6,000 per year for the live webcast of two meetings per month. Mayor Rosamonda entertained a motion to approve the contract with Far Reach Technologies, Inc. Motion made by Vice Mayor Gunter and seconded by Council Member Tillis. The motion carried unanimously.

7. Second Amendment to City of DeBary Contract for Legal Services with Fishback, Dominick, Bennett, Stepter, Ardaman, Ahlers & Bonus LLP

Mr. Ardaman described the details of the amendment to the contract. Mayor Rosamonda entertained a motion to approve the amendment. Motion made by Council Member Carson and seconded by Vice Mayor Gunter. The motion carried unanimously.

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

1. Board/Committee Reports

2. Board/Committee Appointments
 - Board:
 - Code Enforcement Board
 - Member Vice Mayor Gunter
 - Member Council Member Fulton
 - Committees:
 - Economic Development Advisory Committee
 - Alternate At-large
 - Member Mayor Rosamonda
 - Member Vice Mayor Gunter
 - Streetscape Committee
 - Member Council Member Carson
 - Member Vice Mayor Gunter
 - Alternate At-Large

Mayor Rosamonda suggested that the Board and Committee appointments be tabled until the January meeting, and the Council concurred.

3. Member Reports/Communications

- A. Mayor and Council Members

Council Member Tillis thanked Mayor Rosamonda and Vice Mayor Gunter for the knowledge they provided during his first year on the Council.

Council Member Carson reminded everyone of the Holiday Festival of Lights on Saturday and the parade on Sunday. He stated that it has been a pleasure to serve with the Mayor and Vice Mayor for three years.

Vice Mayor Gunter said that he has appreciated the time he has served on the Council and thanked the Mayor.

Mayor Rosamonda said that the Council has improved the City and asked the Council to continue the work they began.

Council Member-Elect Lenzen thanked the Council for the initiation and allowing him to sit on the dais during the meeting.

Mayor-Elect Coleman said he would like the parade to be referred to as the "Christmas" Parade, rather than the Holiday Parade.

- B. City Attorney

Mr. Ardaman said he was sorry to see Mayor Rosamonda and Vice Mayor Gunter leave.

C. City Manager

Ms. Courson informed the Council that the City Christmas party would be held in Town Hall on the 17th. She asked the Council if staff could have an additional day off for Christmas Eve. The Council had no objection to her request. She confirmed that the date for the continuance of the appeal of the zoning regulation interpretation for Highbanks Marina would be January 18th.

XII. Adjournment. The meeting adjourned at 12:13 a.m.

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

George Coleman, Mayor

ATTEST:

Stacy Tebo, City Clerk