

City of DeBary
SPECIAL CITY COUNCIL MEETING

Wednesday

January 18, 2006

7:00 PM

Florence K. Little Town Hall

12 Colomba Road

DeBary, Florida 32713

MINUTES

I. Call to Order

Mayor Coleman called the meeting to order at 7:00 p.m.

II. Roll Call

Members Present: Mayor George Coleman, Vice Mayor Patrick Fulton, Council Member Christopher Carson, Council Member Jack Lenzen, and Council Member Danny Tillis

Others Present: City Manager Maryann Courson, City Clerk Stacy Tebo, Planning Administrator Anita Gonzalez, and Assistant City Attorney Dan Langley

III. 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. Application for a Special Exception for Day Care Center on B-4 (General Commercial) Zoned Property, File No. D-06-001 – Applicant, Christian Care for Lil’ Angels, **CONTINUED FROM JANUARY 4, 2006.**

Scott Ashley, Volusia County Planning Manager, explained the special exception request to the Council and recommended approval.

Ty Harris, attorney for the applicant, informed the Council that if the request were approved, the applicant would immediately begin improving the property. Council Member Tillis expressed his approval of the request. Vice Mayor Fulton asked about the move in date. Mr. Harris answered that the phasing plan calls for a move in date of February 1st, but it is contingent upon DCF and inspection approvals.

Council Member Lenzen questioned the County’s approval of the phasing plan. Mr. Ashley answered that the applicant met the standards at the current number of clients, and because it is an existing developed site, the phasing of improvements is acceptable to bring the property up to the City’s current Gateway Standards.

Mr. Langley explained that it would be a code enforcement matter if the conditions were not met as outlined in the phasing plan.

Council Member Carson expressed his concern regarding the safety of the parking lot and the lake. Mayor Coleman voiced his concern for the safety of the children. Mr. Harris emphasized that the business will have a phased drop-off and pick-up schedule, and that construction work will be done when the children are not there.

Council Member Tillis made a motion to approve the special exception request subject to staff conditions, including the demolition of the single-family structure. Vice Mayor Fulton seconded. The motion carried 4-1, with Council Member Carson dissenting.

2. Appeal of Zoning Regulation Interpretation – Highbanks Marina, Mark Watts, attorney for owner, **CONTINUED FROM JANUARY 4, 2006.**

Ms. Gonzalez explained the information contained in the agenda packet regarding recreational vehicle park regulations in neighboring jurisdictions.

Mr. Watts gave the Council a brief summary of the code enforcement case on the property and the events that transpired, which brought the Highbanks Marina before the Council to request an appeal. He requested that the Council decide if they believe that temporary structures should be permitted under the existing special exception for the campground as previously allowed by Volusia County. He referenced a County memorandum dated June 28, 1989, which summarized the County's interpretation of the zoning regulations; the interpretation allowed someone to obtain a building permit for a temporary structure in an RV park.

Mayor Coleman discussed the on-site sewage system and the forthcoming sewer connection with Mr. Watts.

Vice Mayor Fulton expressed his concern regarding the safety issues associated with the setback violations between lots and questioned the permitting of sheds as temporary structures. Mr. Watts referenced Florida Statute 513, which allows temporary structures in association with recreational vehicles.

Mr. Watts advised that before the City changes the zoning interpretation, it should be properly noticed as an ordinance in a formal process. Ms. Courson stated that the County's interpretation was never adopted by the City; that it only came to light at a code enforcement board hearing; and that City staff was unaware that this interpretation was being actively used by Volusia County as it considered permits in the City of DeBary.

Vice Mayor Fulton asked Mr. Watts the status of the photo inventory of the campground, which had been previously approved by the owner. Mr. Watts answered that due to the code enforcement action of the County staff, the owner was anxious to resolve the zoning question before being noticed with any further code violations. Ms. Courson emphasized that the photo inventory was not intended to be used for further code enforcement action.

Scott Selis, attorney for the River Bluff Homeowner's Association, requested that the Council uphold the City Manager's interpretation of the code. He distributed a site plan of the Highbanks Marina with highlighted areas subject to code enforcement violations to the Council. He also passed out a copy of a residential permit application that was previously approved by the County for a master bedroom and bathroom addition at the campground, which was not a temporary structure.

Mr. Langley noted that the November 30th agenda package should be incorporated into the record for consideration of the appeal.

Jay Erndl, 74 River Bluff Trail, presented pictures to the Council and audience on the overhead projector of various lots with additions at the campground. He asked the Council to provide consistent code enforcement throughout the City and to use the City Manager's interpretation of the zoning code in the future.

Richard Brown, former manager of the campground and current resident, distributed pictures taken on January 2, 2006, of River Bluff residents riding by the campground in a boat shouting at residents. Mayor Coleman advised Mr. Brown to contact the Sheriff's Department if he had a police issue. Mr. Brown said that there are 46 park models in the campground, and they are not temporary.

Terry Cumberledge, 24 River Bluff Trail, informed the Council that she was out on the river January 2, 2006, in order to take pictures of the docks; that she counted fifteen or sixteen docks and that the County only has a record of four dock permits. She added that the Health Department lists them as having 221 spaces.

John Cumberledge, 24 River Bluff Trail, said that the campground has a long history of abuse of privileges relative to accessory structures; that the on-site sewage problems have plagued the area for years; and that the residents are not paying property taxes for riverfront property.

Nan Lafferty, 32 River Bluff Trail, stated that she has been dealing with the problems at the campground since the 1990s; that she advocates a current photo inventory of the campground; and asked the Council to create fair rules and enforce them.

Council Member Lenzen said that Ms. Courson's interpretation could be used for the future, but the County's interpretation should be used for existing situations that need to be resolved.

Council Member Carson stated that the interpretation should stay with the County.

Vice Mayor Fulton said he also wished to go with the County interpretation, so that the Marina can attempt to obtain permits as they were allowed to do in the past. He asked Mr. Watts for a date that the City staff could begin the photo inventory of the park. Don Bauerle, owner of the Highbanks Marina, answered that they could begin in the next week. Ms. Courson said that a third party would be taking the pictures.

Ms. Courson discussed the need for a definition of a park model with Mr. Watts. Mayor Coleman voiced his desire for the City to create its own rules and definitions regarding RV parks for the future. Council Member Tillis agreed that the City should set criteria for the future. Vice Mayor Fulton agreed, but said that for the time being, in the interest of fairness, the County interpretation should apply until the situation is resolved. Mr. Langley said that the interpretation would apply until such time as the Council adopted a new policy by ordinance. He suggested that they immediately begin work on the new ordinance.

Mayor Coleman asked for a motion. Council Member Carson made a motion to uphold the City Manager's interpretation that under the existing special exception, temporary structures such as screen rooms and sheds are not permitted as accessory structures on individual lots; however, due to mitigating circumstances, it is the Council's decision to use the County interpretation dated 6/28/89 to apply to any preexisting structure that is unpermitted in the Highbanks Marina Park as of this date; any forgoing nonexisting structure must comply with the current standards which would not allow those structures. Mr. Selis said the River Bluff HOA was agreeable to the motion. Vice Mayor Fulton seconded. The motion carried unanimously.

Ms. Courson informed the Council of the drainage improvements that need to be completed on Adelaide Street. She asked the Council to approve the proposal from CWB Contractors for \$48,900 to complete the needed drainage improvements on Adelaide Street. Vice Mayor Fulton made a motion to approve. Council Member Tillis seconded. The motion carried unanimously.

Ms. Courson asked to postpone the February 11th workshop because she will be out of town. There was no objection from the Council.

IV. Adjournment

The meeting adjourned at 10:09 p.m.

**APPROVED February 1, 2006
CITY OF DeBARY
CITY COUNCIL**

George Coleman, Mayor

ATTEST:

Stacy Tebo, City Clerk