

**City of DeBary**  
**REGULAR CITY COUNCIL MEETING**  
**Wednesday**  
**April 5, 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.

1. Invocation
2. Flag Salute

**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 City Attorney Kurt Ardaman

**III. Presentations**

1. Proclamation Declaring April 15<sup>th</sup> as Combat Veterans Recognition Day.
2. Proclamation Declaring April as Water Conservation Month.
3. Proclamation Declaring April 9 through April 15, 2006 as Small Business Week.
4. Presentation of Plaque by John Bordas of the DeBary Little League to Volusia County Sheriff's Department, Honor Guard, and DeBary Parks & Recreation Department.
5. Presentation by John Harvey Regarding Clean Up DeBary Day.

Mayor Coleman read the Proclamation Declaring April 15<sup>th</sup> as Combat Veterans Recognition Day and presented it to Commander David Brown of VFW Post 8093.

Mayor Coleman read the Proclamation Declaring April as Water Conservation Month and presented it to Deborah Green.

Mayor Coleman read the Proclamation Declaring April 9 through April 15, 2006 as Small Business Week and presented it to Council Member Tillis.

John Bordas of the DeBary Little League presented plaques of appreciation to Lieutenant Brannon of the Volusia County Sheriff's Department and Mayor Coleman.

John Harvey reminded the Council and audience of DeBary Clean Up Day on April 22<sup>nd</sup> and asked the Council to participate.

#### **IV. Public Participation For Any Issues Not On the Agenda**

Bernie Senez, 225 White Dove Drive, spoke to the Council on behalf of his brother, Ernie Senez, who could not be present. He said that his brother has concerns regarding the stormwater situation at Summerhaven and the Enterprise Cove connection. He added that the easement given to the City of DeBary by his brother does not allow use by any other entities.

Anne Senez, 3001 Annez Way, commended the Council for the recent improvements to the 17-92 Streetscape and asked the Council to resolve the Summerhaven stormwater issues.

Darlene Durso, 545 Snapper Cove Drive, said that the Summerhaven residents would like the developer of Enterprise Cove to ensure that the stormwater is kept on-site.

Douglas Foley, 525 Snapper Cove Drive, asked if the City of DeBary could require the Enterprise Cove developer to enlarge the retention pond to handle all the stormwater, rather than connecting to Summerhaven.

William Baray, 535 Snapper Cove Drive, voiced his opposition to the use of the right-of-way by the developer of Enterprise Cove Apartments.

Jim Epperson, 3010 Cat Tail Lane, spoke against the Enterprise Cove connection to the Summerhaven drainage system.

John Likakis, 38 Seminole Drive, spoke in favor of a development moratorium due to various issues plaguing the City, such as traffic congestion, school overcrowding and flooding problems. He also asked for a review of the City's Comprehensive Plan, the Land Development Code, and the Future Land Use Map.

Debbie Brandt, 157 Oak Tree Drive, spoke against the Alexander Woods development and voiced her disapproval of Council members meeting individually with the representatives of the development; she said that she believed the meetings were in violation of the Sunshine Law.

Norm Habermehl, 551 Lanyard Lane, asked for the Council's assistance regarding a letter he received from Volusia County Utilities requiring that he connect to the County sewer system by June 1<sup>st</sup>.

Mayor Coleman gave the audience a brief synopsis of the Enterprise Cove stormwater connection to the Summerhaven subdivision. Ms. Courson stated that the use permit has not been issued. Mr. Ardaman explained that the Senez easement does provide for stormwater flow from the Summerhaven development, as well as abutting properties. He added that property owners do have the right to discharge their stormwater over other properties to get to a low-point.

Bernie Senez, 225 White Dove Drive, readdressed the Council concerning the easement granted by his brother to the City of DeBary. He stated that his brother would file a lawsuit if the City allows the use permit. Vice Mayor Fulton asked Mr. Ardaman for a copy of the easement. Mr. Ardaman responded that he would provide copies of the Senez easement to the Council.

Mark Watts, attorney for Empire Cattle Ltd., requested a rehearing on the matter of the Alexander Woods RPUD rezoning request that was denied at the meeting held March 15, 2006. Vice Mayor Fulton stated that he was interested in negotiating a lower density with the developer and made a motion to reconsider the application as modified, contingent upon the developer paying the pass through expenses incurred by the City. Due to lack of a second, the motion died.

## **V. Approval of Minutes**

1. Special City Council Meeting held February 15, 2006.
2. City Council Workshop held February 25, 2006.
3. Regular City Council Meeting held March 1, 2006.
4. Special City Council Meeting held March 15, 2006.
5. City Council Workshop held March 20, 2006.

Mayor Coleman noted a change in a date listed in the minutes of March 20, 2006, and then entertained a motion to approve the minutes as amended. Motion made by Council Member Lenzen and seconded by Council Member Tillis. The motion passed 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 #07-06 – First Reading – Major Amendment to the Glen Abbey PUD, Tim O’Neil, applicant. CONTINUED FROM MARCH 1, 2006.

Mr. Ardaman read Ordinance #07-06 aloud by title.

Dave Zechnowitz, Volusia County Planner III, briefed the Council on the proposed amendment to the Glen Abbey PUD and recommended approval.

Alan Watts, attorney for the applicant, stated that the request is consistent with the City’s comprehensive plan. He noted that they had met with all of the Glen Abbey Homeowner’s Associations since the Council meeting held on March 1, 2006.

Elizabeth Yocum, 448 N. Pine Meadow Drive, spoke against the proposed amendment and asked the Council to deny the request.

Tom Marshall, 301 Glen Club Drive, asked for clarification on the specifics of the project. Mr. O’Neil responded that there would be twenty units contained within five buildings, having a minimum of 2100 square feet air-conditioned space per unit.

Ken Webster, 122 Spring Glen Drive, suggested that a roundabout be constructed at the front entrance of the proposed development.

Council Member Tillis made a motion to approve the request for twenty units contained within five buildings, having a minimum of 2100 square feet. Council Member Lenzen seconded the motion. The motion passed 3-2, with Mayor Coleman and Council Member Carson dissenting.

2. Ordinance #04-06 – First Reading – Rezoning from RC, Resource Corridor to R-4, Urban Single Family, File No. D-06-002 – Owner, Cy Holley.

Mr. Ardaman read Ordinance #04-06 aloud by title.

Mr. Zechnowitz explained the rezoning request to the Council and recommended approval.

Cy Holley, property owner, distributed to the Council an aerial photo of the property, an elevation map of the property, and a rendering of the type of house he intends to build on the property.

Carolyn Evans, 387 Magnolia Place, spoke in favor of the rezoning request.

Council Member Tillis stated he believed the property is too low, and voiced his concern regarding the septic and well placement.

Vice Mayor Fulton made a motion to approve, and Council Member Lenzen seconded. The motion passed 4-1, with Council Member Tillis dissenting.

3. Application for Variance to Side Yard Setback for a Detached Garage (15 ft in lieu of the required 25 ft) by Heard Saxon, Owner, File No. D-06-005.

Mr. Zechnowitz outlined the variance request for the Council and recommended approval subject to the removal of the existing two-story accessory storage structure.

Heard Saxon, property owner, explained that he needed the variance so that he would not have to remove large oak trees on his property. Council Member Tillis made a motion to approve the variance. Council Member Carson seconded the motion. The motion passed unanimously.

4. Ordinance #08-06 – Second Reading – Expansion of DeBary Plantation Streetlighting District to Include Unit 21A.

Mr. Ardaman read Ordinance #08-06 aloud by title. Mayor Coleman entertained a motion for approval. Motion made by Council Member Tillis and seconded by Vice Mayor Fulton. The motion passed unanimously.

5. Ordinance #22-05 – Second Reading – 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.

Ms. Gonzalez explained the request and provided relative background information to the Council. She recommended that the FLUM designation be changed from Residential/Low Density to Residential/Low-Medium Density.

Darren Elkind, attorney for the property owner, gave the Council a brief history of the property and clarified the reason for the request.

Rick Dwyer, 154 Hickory Stick Court, voiced his concern regarding the density proposed by Southland Homes. He asked the Council not to change the land use.

Jim Degni, 348 Caddie Drive, expressed his disapproval of the townhouse project.

Eugene Stump, 106 Birkwood Court, articulated his concern regarding traffic and stormwater problems associated with the project

Robert Shaffer, 368 Caddie Drive, spoke against high density and said that 270 units are excessive.

Mr. Elkind stated that the approved PUD would govern the minimum square footage of the townhouses and would limit the total number of units that Southland Homes could construct. He added that there are approximately 155 units remaining in the DeBary Golf and Country Club PUD.

Ms. Gonzalez stated that the existing land use allows for approximately 65 units. She added that if the Council approved the change to Residential/Low-Medium Density, Southland Homes could ask for the number of units to be between 65 and 155.

Ray Hagood, property owner, stated his intentions regarding the property.

Council Member Tillis made a motion to deny the proposed large-scale comprehensive plan FLUM amendment. Council Member Carson seconded the motion. The motion passed 4-1, with Vice Mayor Fulton dissenting.

## **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. Release of Subdivision Maintenance Agreement for DeBary Plantation Unit 13B-2, Subdivision Final Plat, File No. 03-S-FPL-0271.
- \*2. Release of Subdivision Maintenance Agreement for DeBary Plantation Unit 17B, Subdivision Final Plat, File No. 03-S-FPL-0272.

- \*3. Release of Subdivision Maintenance Agreement for DeBary Commercial Subdivision, Subdivision Final Plat, File No. 03-S-FPL-0273.
- \*4. Ordinance #09-06 – First Reading – Expansion of Saxon Woods Streetlighting District to Include Unit 3B.
- \*5. Ordinance #17-06 – First Reading – Vacating Drainage & Utility Easements, Parkview Heights.
- \*6. Final Site Plan Application for Springview Industrial Park Lot 14, File No. 06-F-FSP-0081.

Mr. Ardaman read Ordinances #09-06 and #17-06 aloud by title. Mayor Coleman entertained a motion to approve the consent agenda. Motion made by Vice Mayor Fulton and seconded by Council Member Tillis. The motion passed unanimously.

**VIII. Growth Management and Development Review**

- 1. None.

**IX. Old Business**

- 1. None.

**X. New Business**

- 1. West Volusia Cultural and Corporate Training Center Operations Agreement.

Ms. Courson explained that Orange City and Deltona have approved the Operations Agreement.

Mr. Ardaman said that the revised Operations Agreement has improved since the first draft, but he still has concerns with the document. He explained that potentially, the City would not have the legal protection of sovereign immunity because of the formation of the non-profit entity; that the agreement could bind the City for at least forty years; that cost shortfalls would be assessed to the cities each year; that the Board to be created by the agreement would only have two members appointed by the City of DeBary; that the Board would control the budget, and there is nothing in the agreement that limits what the City would be obligated to pay in certain situations; that the Board would set the policies, and not the cities; and there is nothing in the agreement that would prevent disparity in benefits between the parties involved.

Albert T. Erwin, Mayor of Orange City, explained the different funding sources associated with the project and stated that they have \$23 million to build the facility. He stated that there would not be any disparity as far as use is concerned because DeBary contributed less than Deltona or Orange City.

Council Member Tillis stated he was in favor of the Center, but due to the financial situation of the City, he was not in favor of the City approving the Operations Agreement.

Vice Mayor Fulton said he was also in favor of the project, but was not in favor of the City writing a blank check every year. He stressed that there are a lot of unknown variables, and the Council needs to be responsible for the City's tax dollars.

Council Member Carson said there are too many questions and loopholes in the agreement for him to support it.

Council Member Lenzen voiced his approval of the project, but stated that it would be irresponsible for the Council to sign the agreement due to the financial limitations of the City.

Mayor Coleman stated that he supported the project and would vote to approve the Operations Agreement.

Carolyn Evans, 387 Magnolia Place, spoke in favor of the facility and asked the Council to approve the Operations Agreement.

Mayor Coleman asked for a motion. There was no action from the Council.

2. Purchase of Property Located at 67 Alicante Road for Storm Water Utilities.

Vice Mayor Fulton made a motion to approve the purchase of the property for \$51,200 with the City paying closing costs and to authorize the City Manager to execute all closing documents. Council Member Carson seconded. The motion passed unanimously.

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

1. Board/Committee Appointments  
Economic Development Advisory Committee  
Alternate At-large  
Regular Member Council Member Tillis

Council Member Tillis nominated Gretchen Ganas. Vice Mayor Fulton seconded the motion. The motion passed unanimously. The Alternate Member position appointment was postponed until the May meeting.

- Streetscape Committee  
Regular Member Council Member Lenzen  
Regular Member At-large  
Alternate At-Large

The appointments were postponed until the May meeting.

2. Member Reports/Communications  
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A. Mayor and Council Members

Council Member Tillis stated that he attended the National League of Cities Conference in Washington D.C.

B. City Attorney

Mr. Ardaman had nothing to report.

C. City Manager

Ms. Courson had nothing to report.

V. **Adjournment.** The meeting adjourned at 10:55 p.m.

**APPROVED May 3, 2006  
CITY OF DeBARY  
CITY COUNCIL**

**George Coleman, Mayor**

**ATTEST:**

**Stacy Tebo, City Clerk**