

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
December 5, 2007
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, Finance Administrator Jimmie Seelbinder, and Assistant City Attorney Dan Langley

III. Presentations

1. Presentation from Four Towne Moose Lodge 655 of DeBary to Investigator Lee for Deputy of the Year 2006-2007.

Moose Lodge representative Bob Garcia presented a plaque to Investigator Charles Lee, outlined his accomplishments for the past year, and thanked him for his service to the City.

IV. Public Participation For Any Issues Not On the Agenda

Mason Porter, 8 Rosedown Boulevard, stated he was trying to bring in younger members to the VFW Post 8093, and he is looking for local sponsors for the Combat Veterans Day event on April 5th. Ms. Courson stated that there is money budgeted for the event. Mayor Coleman asked Mr. Porter to send a letter to the City requesting assistance.

Van Conoley, 25 Rosedown Boulevard, expressed his appreciation to Council Member Tillis for his service to the City for the last three years.

Henry Canfield, 327 Alemander Avenue, asked for help regarding a letter he received from City code enforcement asking him to move his motorcycle trailer. Ms. Courson explained that a variance would correct the issue, and asked him to meet with her at City Hall the following day.

Thomas Marshall Sr., 301 Glen Club Drive, informed the Council of a billing problem with the streetlighting district in Glen Abbey Club. He explained that the City has been billing the homeowners of Glen Abbey Club on their tax bill for the lights, but the homeowner's association has also been paying Progress Energy for streetlights. Ms. Courson said she would contact Sophia O'Keefe with Progress Energy to resolve the problem. Mr. Marshall also spoke about the exorbitant cost of reclaimed water and asked the Council to look into the matter.

Bob Garcia, 101 Sunrise Boulevard, asked for clarification of the commuter rail location because the Orlando Sentinel ran a story erroneously showing the prior site at Saxon Boulevard. Mayor Coleman affirmed that the location would be at Fort Florida Road.

Danny Allen, 140 Fort Florida Road, updated the Council on the VGMC and said that they want input by December 31st on proposed changes to the VGMC policies and procedures.

V. Approval of Minutes

1. Regular City Council Meeting held November 7, 2007.

Mayor Coleman entertained a motion for approval. Council Member Lenzen moved to approve the minutes, and Council Member Carson seconded. The motion passed unanimously.

2. City Council Workshop held November 20, 2007.

Mayor Coleman entertained a motion for approval. Council Member Tillis moved to approve the minutes, and Council Member Lenzen seconded. 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 #25-07 – Second Reading – Rezoning from A-1, A-2 and B-5 to Industrial Planned Unit Development (IPUD) on Approximately 47.5 Acres Located on the East Side of U.S. Highway 17-92 Approximately One-Half Mile South of Dirksen Road.

Mr. Langley read Ordinance #25-07 aloud by title.

David Dunne, with GAI Consultants, stated that due to provisions in the comprehensive plan requiring review by VGMC, he recommends that the second reading be continued.

Sid Vihlen, Jr., representative for the applicant, stated that VGMC does not have legal authority to review standard zoning in the City of DeBary.

Allen Watts, 351 E. New York Avenue, explained how the provision requiring zoning approval by VGMC was placed in the comprehensive plan.

Mr. Langley stated that he was unaware of the provision until minutes before the meeting; that he agreed with both Mr. Vihlen and Mr. Watts; that there are various options for Council to consider; and that Council could adopt the ordinance on second reading and change the effective date to coincide with the conclusion of the VGMC process.

Dennis Towell, president of Nelson LC, stated that his company's current lease expires in February 2009, and they need to get the process moving as quickly as possible.

Vice Mayor Fulton moved to approve Ordinance #25-07, amending the effective date so that it occurs at the conclusion of the VGMC process. Council Member Tillis seconded. The motion passed unanimously.

2. Stipulated Settlement Agreement with the Department of Community Affairs Concerning DOAH Case #07-2660GM – Country Estates at River Bend.

Mr. Langley explained that the Council must approve the settlement agreement prior to the remedial ordinance for procedural reasons and gave a brief summary of the facts involving the process. He added that approval of the agreement would resolve the pending administrative hearing process, rescinds the ten commercial acres to replace it with residential low density and environmentally sensitive land, and would limit the residential units to 250.

Ryan Rinaldo, 161 W. Highbanks Road, voiced his concern regarding the preservation of natural Florida and the effect that approval of new developments has on it.

Eugene Stump, 106 Birkwood Court, said that the City should approve the agreement, and that it would benefit the entire City, as well as the residents of Fort Florida Road.

John Likakis, 38 Seminole Drive, voiced a number of questions and concerns regarding the proposed development.

Ty Harris, attorney for the applicant, affirmed that all the previous commitments made on behalf of the developer would be honored.

Mayor Coleman entertained a motion for approval of the settlement agreement. Motion made by Council Member Carson and seconded by Council Member Lenzen. The motion passed 4-1, with Council Member Tillis dissenting.

3. Ordinance #26-07 – Amending Ordinance #31-06 Concerning the Future Land Use Map and Future Land Use Element of the Comprehensive Plan for the Country Estates at River Bend Project.

Mr. Langley read Ordinance #26-07 aloud by title and explained the remedial amendment to the Council.

Council Member Tillis asked about the archaeological sites on the property. Mr. Harris explained the general location of the two sites and noted that they are situated within the conservation areas and will not be disturbed in any way by the development.

Mayor Coleman stated that he did not have any speaker cards and entertained a motion for approval. Motion made by Council Member Lenzen and seconded by Vice Mayor Fulton. The motion passed unanimously.

4. Ordinance #20-07 – Transmittal Hearing of Comprehensive Plan Public School Facilities Element.

Mr. Langley read Ordinance #20-07 aloud by title. Ms. Courson stated that the amendment goes with the school board agreement approved in November; that it is required by state law; that it complies with the charter amendments; and that she recommends approval.

Mayor Coleman entertained a motion for approval. Motion made by Vice Mayor Fulton and seconded by Council Member Tillis. Council Member Tillis again voiced his concern regarding relinquishing home rule authority. The motion passed 4-1, with Council Member Tillis dissenting.

5. Resolution #07-30 – Notice of Intent to Increase Non Ad valorem Assessments for Collection and Disposal of Solid Waste Rate.

Mr. Langley read Resolution #07-30 aloud by title.

Eugene Stump, 106 Birkwood Court, asked for the City to send a letter to Waste Pro asking them to ensure all the trash is picked up and the cans returned to the yard instead of the street.

Council Member Tillis said he had driven behind the garbage trucks before and observed the workers doing a good job. He asked the staff to address yard waste with the garbage company.

Vice Mayor Fulton made a motion to approve the resolution, provided that the City send a letter to Waste Pro addressing the concerns of Mr. Stump and Council Member Tillis. Council Member Carson seconded. The motion passed 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. Subdivision Overall Development Plan Application for Prasek Lot Split
CONTINUED FROM NOVEMBER 7, 2007.

Neil Lacy, the applicant's son, addressed the Council concerning his mother's request to subdivide the lot. He noted that once and if it is divided, both remaining lots would still be oversized. Dorothy Prasek stated that they have never had a stormwater issue in the area in at least forty years.

Council Member Tillis noted that it is a very high area, and stormwater runoff should not be an issue if the lot is subdivided. Vice Mayor Fulton agreed with Council Member Tillis, in that each request should be looked at individually, and that the property is not located in a low-lying area.

Council Member Lenzen disagreed and said they should not subdivide any of the oversized lots in old DeBary. Mayor Coleman agreed with Council Member Lenzen and said that approval would set a precedent for others to subdivide.

Council Member Carson voiced his support of the request.

Vice Mayor Fulton moved to approve Ms. Prasek's request. Council Member Tillis seconded. The motion passed 3-2, with Mayor Coleman and Council Member Lenzen dissenting.

2. Request to Renew BPUD Zoning Classification for G. C. Contracting, LLC.

David Dunne, with GAI Consultants, explained the renewal request to the Council. Ms. Courson stated that the Moose Lodge has a contract to purchase the property and initiated the application.

Bob Garcia of the Moose Lodge asked the Council for as much time as possible for the term renewal. Mr. Langley said that the City's Land Development Code specifies 520 days following the execution of a development order.

Vice Mayor Fulton made a motion to approve the renewal request for 520 days. Council Member Tillis seconded. The motion passed unanimously.

IX. Unfinished Business

1. Purchase of Properties - Stormwater Capital Improvement Projects.

Ms. Courson explained both of the properties under consideration for purchase and noted that one of the property owners is asking for more than the appraised price.

Vice Mayor Fulton moved to approve the purchase of 120 Homestead Avenue only. Council Member Lenzen seconded. The motion passed unanimously.

X. New Business

1. Asset Management Agreement.

Finance Administrator Jimmie Seelbinder explained that over the past several weeks, the State Board of Administration has had problems with the investment pool; that many investors have pulled their funds out; and that the City has ten million dollars in the pool and would be allowed to take out two million dollars on Thursday.

Brian Todd, with MBIA, explained that that there is not any fee to the City for money market funds.

Van Conoley, 25 Rosedown Boulevard, voiced concern regarding MBIA and the status of the company's stock. He asked for clarification of the role MBIA would play. Mr. Seelbinder answered that the agreement would give MBIA authority to invest DeBary's funds in a money market account, and essentially, they would be the asset manager for DeBary's funds.

Ms. Courson stated that the City needs to diversify its investments; that the City has not invested its operating funds in the SBA; that the City wants access to construction funds for the new city hall and stormwater projects; and that the City should remove the maximum allowed by the SBA out of the investment pool.

Council Member Lenzen said he is opposed to transferring the money because it is premature at the time.

Council Member Tillis advocated removing as much money from the SBA as possible so funds would be available if needed. Council Member Carson and Vice Mayor Fulton agreed.

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

2. Pay Structure of City Manager.

Ms. Courson stated that she did not believe it is the time for a raise, and the evaluation is part of the contract.

Council Member Tillis said that Ms. Courson has done a good job, and that they should leave her salary as is.

Ms. Courson said she would like to accept that position and move on to the next item on the agenda.

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

1. Board / Committee Appointments
School Oversight Committee

This item was not discussed.

2. Member Reports/Communications
a. Mayor and Council Members
• Discussion of Letter from WAV Chairman

Mayor Coleman suggested that the City stay in WAV. Vice Mayor Fulton made a motion for the City to stay in WAV, and Council Member Lenzen seconded. The motion passed unanimously.

Council Member Tillis said he received a nice plaque from Volusia County MPO and the Volusia League of Cities. Mayor Coleman stated that the various committees were very happy with the service Council Member Tillis has provided over the last three years.

Vice Mayor Fulton reminded everyone that he would attend one more WAV meeting in December and then the Council would need to appoint a replacement.

Council Member Carson reminded everyone of the upcoming weekend's city events.

Council Member Lenzen said he enjoyed conversing with Congressman Mica and others at the recent workshop. He added that he enjoyed serving with the Council, and thanked Council Member Tillis and Vice Mayor Fulton for helping him in his first year and for the time and effort they put forth in serving the city.

• Discussion of Duties for OHNID Assistants

This item was not discussed.

B. City Attorney

Mr. Langley had nothing to report.

C. City Manager – Request for Special Meeting for Highbanks Marina and Board/Committee Reports.

Ms. Courson asked the Council if they would allow the City employees to have Christmas Eve off, as it falls on a Monday. Council Member Tillis suggested that half of the employees take off that day, and the other half take off on New Year's Eve.

Ms. Courson informed the Council that the Fire Department has approved Highbanks Marina's final plan, but their attorney, Mark Watts is not available until January. Mayor Coleman recommended that the new Council could decide a meeting date on January 2nd.

Vice Mayor Fulton thanked the city staff and the city attorney for the good job that they do and for the assistance they have provided to him during his term on the Council.

XII. Adjournment. The meeting adjourned at 10:35 p.m.

**APPROVED January 9, 2008
CITY OF DeBARY
CITY COUNCIL**

George Coleman, Mayor

ATTEST:

Stacy Tebo, City Clerk