

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
January 9, 2008
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 Christopher Carson, Council Member Norman Erickson, Council Member Jack Lenzen, and Council Member Leonard Marks

Others Present: City Manager Maryann Courson, City Clerk Stacy Tebo, Neighborhood Improvement Officer Dave Hooker, and City Attorney Kurt Ardaman

III. Presentations

None.

IV. Public Participation For Any Issues Not On the Agenda

Mark Meister, 146 Pine Tree Drive, voiced his displeasure regarding the failure of the City to secure the ECHO grant for the skateboard park and the non-performance of the contractual grant writer. Council Member Erickson agreed with Mr. Meister and said he had a letter from Margaret Hodge of the ECHO program if he was interested in reading it.

Ron Neidert, 218 Eldorado Drive, spoke about the recent code enforcement activity in DeBary and asked the Council to consider the citizens of DeBary.

R. V. Conoley, 25 Rosedown Boulevard, spoke against the Council's transfer of funds to a political action committee in 2006.

David Russell, 136 Deerpath Road, thanked the Council for assisting Orlandia Heights in finishing the roads, but said that the Board is still not following the will of the residents. He stated that they are paying \$25,000 per year plus materials; that the contractor is still mowing; that he asked the Board to adopt a wait and see approach; and that they did not listen to him or the residents to see what maintenance would be required before authorizing the expenditure of more funds.

Rani Merens, 213 Alta Vista Street and the City's representative to the BPAC, informed everyone that the access path across Dirksen Drive to Gemini Springs was approved and would be completed by 2011. She added that there would be a public input workshop on January 23rd in Deland for the County bicycling map. She also spoke about the Art League's program that helps disabled people with art and displayed a painting she had done.

Morton Culligan, 66 Tanglewood Road, spoke against multiple layers of government, in particular, the Orlandia Heights Neighborhood Improvement District. He asked the Council to keep the directors of the District in check and closely monitor their actions.

X. New Business

1. Discussion of Canvass Carport Violations.

The Council agreed to move this item up due to the large number of residents in the audience that wished to hear it.

Fred Cardano, 25 Seminole Drive, explained the situation regarding his carport structure that he has owned for six years. He asked the Council to consider the code prohibiting temporary carports and suspend enforcement on the cases until the Council studies the issue.

Coach "Reddy" Cox, 220 Clara Vista Street, stated he has had a canopy over his bass boat for nine years; that he always removes the tarp whenever it is windy; and that the canopy survived all three hurricanes in 2004. He also spoke about the recent tree clearing violation on Clara Vista Street and the severity of that type violation as opposed to canvass carport violations.

Burke Winn, 235 Eldorado Drive, stated that the City is interfering with his pursuit of life, liberty, and the pursuit of happiness when they ask him to remove the tarp that covers his boat. He explained that he put up the tarp to protect his boat from the sun and asked the Council to reconsider the ordinance.

Bob Brown, 217 Acacia Road, said he spoke with the City before he brought his RV to DeBary and portable carport, which is 20 x 40 feet. He said that the Building Code was changed after he already had both items on his property. He added that his problem is further compounded by the fact that he lives on a corner, and technically has two front yards.

Mr. Ardaman suggested that his office confer with the Building Official and the City Manager to review the building code and the extensive regulations. He added that the City could not lessen the requirements of the building code, but only make it more stringent.

Mayor Coleman noted that DeBary is not the only city facing this issue. The Council discussed their desire to find a way to address the residents' concerns. Council Member Lenzen said the Council needs to establish a policy and mentioned that Seminole County recently addressed the issue. Ms. Courson said she would check with Seminole County to find out what kind of ordinance they passed to address canopies as temporary structures.

Council Member Erickson moved to suspend enforcement of canvass carport violations, and asked Mr. Ardaman to work with staff to gather further information on the issue and bring it

back to Council for consideration. Council Member Lenzen seconded. The motion passed unanimously.

V. Approval of Minutes

1. Regular City Council Meeting held December 5, 2007.

Mayor Coleman entertained a motion for approval. Vice Mayor Carson moved to approve the minutes, and Council Member Erickson 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 #01-08 – First Reading – Family Dollar Store Rezoning from B-4 (General Commercial) to BPUD (Business Planned Unit Development) and Request for Variance to Allow Over 9,000 Square Feet of Retail in Lieu of the Maximum Allowable 5,000 square foot for Commercial Development in the S. 17-92 Overlay District.

Mr. Ardaman read Ordinance #01-08 aloud by title.

David Dunne, with GAI Consultants, stated that the updated development agreement is included in the applicant's packet, and the older version included in the Council's packet should be disregarded. He explained the purpose and scope of the project to build a Family Dollar Store.

Gary Ralston, representative for the applicant, further elaborated on the proposed project and listed various reasons he thinks the store would be good for DeBary.

Council Member Lenzen noted that the code requires a masonry wall between the project and the residential area. Mr. Ralston answered that he envisioned a natural vegetative wall, rather than a block wall.

Council Member Erickson posed questions regarding the need for the City to have a Development Review Committee (DRC). Mr. Dunne responded that his company, in conjunction with sub-consultants, serves as the DRC for the City. Council Member Erickson voiced concern that granting the variance and rezoning would conflict with Section 5.403a of DeBary's Comprehensive Plan, which states that retail establishments should be small, ranging up to 5,000 square feet. Mr. Dunne responded that comprehensive plan policies are subject to interpretation and should be looked at in the aggregate when determining consistency. Council Member Erickson stated that the comprehensive plan is the underlying authority and should govern if there is a conflict with the land development code.

Mr. Ardaman explained that the comprehensive plan does control and all rezonings should be consistent; that there are multiple provisions and sections of the plan that apply, and one should look to the comprehensive plan as a whole, rather than one specific section; that sometimes an application is consistent with many provisions and might be in conflict with some; and that the Council has to make a decision of consistency based on looking at everything.

Council Member Erickson moved to deny Ordinance #01-08 and the variance request based on the inconsistency with the comprehensive plan. Council Member Marks seconded.

Danny Allen, 140 Fort Florida Road, agreed with Council Member Erickson regarding the DRC and the need for zoning to be consistent with the comprehensive plan.

Council Member Erickson asked Mr. Dunne to ensure that in the future, all materials are provided to Council the Friday before the meeting.

Mr. Ardaman stated that in the past, County Planners, acting on the City's behalf, were advised not to provide recommendations based on the fact that Council might go against their recommendations, which could prove troublesome later in terms of legal issues. He added that perhaps the Council might find a statement of factual findings helpful from staff, but recommendations might not be a good idea.

Mayor Coleman asked for a vote on the motion of denial, and it passed unanimously.

2. DJ Hachenberger Variance to Allow the Construction of an Accessory Structure (Dock) Prior to the Construction of the Principal Structure (Home).

Mr. Dunne briefed the Council on the request.

DJ Hachenberger, property owner, answered questions from the Council. He said that he was waiting to build the house until the water and sewer lines are installed on Fort Florida Road; that he has owned the property for seven years and wanted to see what was going on around the property before he built; and that he would be wrapping up plans for the home within the year.

Mayor Coleman entertained a motion for approval. Motion made by Council Member Lenzen and seconded by Vice Mayor Carson. The motion passed unanimously.

3. Resolution #08-01 – Robert's Rules of Order – Council Member Erickson.

Mr. Ardaman read Resolution #08-01 aloud by title.

Council Member Erickson discussed the Resolution and explained his reasoning for the modified agenda included with the item following the resolution. Vice Mayor Carson and Mayor Coleman voiced support for the resolution, but did not support the modified agenda.

Council Member Erickson moved to approve Resolution #08-01. Council Member Marks 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. Resolution #08-02 – Florida League of Cities Legislative Priorities.
- *2. DeBary Little League Agreement Renewal.
- *3. Glen Abbey Club Request for Reimbursement.

Mr. Ardaman read Resolution #08-02 aloud by title. Council Member Erickson requested that item #1 be pulled from the consent agenda.

Mr. Ardaman recommended an addition to page two of the Little League Agreement. Mayor Coleman asked for a motion of approval for the consent agenda. Council Member Lenzen moved to approve the consent agenda, with the addition suggested by Mr. Ardaman. Council Member Marks seconded. The motion passed unanimously.

Council Member Erickson discussed Resolution #08-02 and asked a few questions. He suggested a deletion on page two regarding voter referendum. Council Member Erickson moved to approve the resolution with the deletion he suggested. Mayor Coleman seconded. The motion passed unanimously.

VIII. Growth Management and Development Review

1. Consideration of Request from Thomas Allen to Abate Code Enforcement Lien on Property at 167 S. US Highway 17-92, Case #06-011-H.

Neighborhood Improvement Officer Dave Hooker gave a brief summary of the code enforcement case.

Property owner Thomas Allen addressed the Council to clarify the reasons the lien accrued, and stated that it was a misunderstanding on his part regarding the nature of the violation. He said he always had the intent to comply with the City's request to enclose the dumpster; that he was unaware he had to have a permit; that the dumpster was enclosed about two weeks after the code board hearing; and that he only became aware of the lien when he was trying to refinance to pay tax debt.

Council Member Lenzen said that the goal of code enforcement is to gain compliance, and not to generate revenue. Mr. Hooker explained the code enforcement process to the Council.

Vice Mayor Carson made a motion to reduce the lien to \$500 if paid within thirty days and authorizing the Mayor to execute the release of lien. Council Member Lenzen seconded. The motion passed unanimously.

Council Member Marks requested that a discussion of requests to waive or reduce code enforcement liens be placed on the next agenda.

IX. Unfinished Business

1. Request from VFW Post 8093 Commander David Brown Regarding Combat Veterans Recognition Day.

Bob Garcia stated that Commander Brown was out of town and unable to address the Council, but the Council did have his letter requesting City assistance with the special event. Ms. Courson noted that the Council had budgeted for participation in the event, but cautioned that the City had not planned on taking the lead.

Council Member Lenzen made a motion for the City to partner with the VFW, provide support, and continue with the same level of participation as in 2007. Vice Mayor Carson seconded. The motion passed unanimously.

2. Additional Geotechnical Services for Monroe Avenue and Catalina Drive Stormwater Capital Improvement Projects.

Ms. Courson explained that the original proposal was to take the water to 17-92, but that it must be re-routed so a pump is not needed.

Mayor Coleman entertained a motion for approval. Motion made by Vice Mayor Carson and seconded by Mayor Coleman. The motion passed unanimously.

3. Gateway Center for the Arts Request for Funding.

Sandra Gray, 263 Bayou Circle, addressed the Council and explained the membership, function, and purpose of the Gateway Center for the Arts (GCA).

Rick Dwyer, 154 Hickory Stick Court, said that although there are 300 members, there are thousands that participate in the programs for the community at-large. He also explained the funding distribution and what is needed to bring the construction of the building to fruition.

Sandra Wilson, GCA Project Director, spoke on behalf of the Art League and the importance of building the Gateway Center for the Arts. She stressed that the arts would serve all age groups.

Thomas Pawlicki, 224 Birdiewood Court, spoke on behalf of the Knights of Columbus in asking the Council to help with the funding of the project.

Morton Culligan, 66 Tanglewood Drive, spoke against the Art League and the City spending money on the Gateway Center for the Arts.

Ron Burdett, 2440 Ainsworth Ave. in Deltona, spoke in favor of the programs offered by the Art League.

Vice Mayor Carson said that no one questions the value of the arts in DeBary, but the City has to watch its budget.

Council Member Marks asked Ms. Wilson the amount they are requesting from the City and if she has approached Deltona or Orange City for funding. Ms. Wilson answered that the amount is \$672,000; that she asked Orange City, and they declined; but that she did not ask the City of Deltona for money.

Council Member Erickson said the citizens have already contributed as taxpayers to the project.

Susanne Lombardi, 45 Catalina Drive, voiced concern regarding the future of the community libraries countywide because of insufficient funds, and stated the Council should think twice before funding the Art League.

Council Member Lenzen stated he was not elected to give away taxpayers' money; that he supports the Art League personally and feels the City should continue to support the Art League;

but that he has a financial obligation to the City to leave it in a better position than when he was elected.

Mayor Coleman moved to deny the request, and Council Member Marks seconded. The motion passed unanimously.

X. New Business

1. River City Nature Park Improvements.

Due to the late hour, this item was postponed. Ms. Courson asked the Council to email their suggested improvements for the Nature Park to her.

2. Discussion of Canvass Carport Violations.

This item was discussed earlier in the meeting.

3. Award of Riviera Drive Capital Improvement Drainage Project, Bid No. 13-07.

Ms. Courson explained the consistent flooding problems in the Riviera Drive area and said that Progressive Contractors, Inc. has worked for the City in the past. Mayor Coleman moved to approve. Council Member Lenzen seconded. The motion passed unanimously.

Council Member Erickson voiced concern regarding water quality issues. Ms. Courson responded that the maximum daily load study would begin shortly, and they would sample over twenty lakes to get a baseline health established for each lake.

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

1. Board / Committee Appointments
Orlandia Heights Neighborhood Improvement District
Regular Member At-Large
(Ms. McLane's term expires 3/23/08.)

Ms. Courson stated that the two candidates for the position are Toni Beiser and Craig Cooper.

Morton Culligan, 66 Tanglewood Drive, said that the appointment should be made when Mr. Cooper is present. Council Member Marks suggested that the appointment be postponed until the next meeting.

Council Member Lenzen nominated Toni Beiser, and Vice Mayor Carson seconded. The motion passed 4-1, with Council Member Marks dissenting.

Volusia County MPO Executive Committee
Water Authority of Volusia

Due to the late hour, these appointments and the remainder of the agenda were postponed until the next meeting.

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

Two Council Meetings Per Month Discussion – Council Member Erickson

- B. City Attorney
- C. City Manager – Request to Schedule WSEFMS Presentation to Council.

XII. Adjournment. The meeting adjourned at 11:08 p.m.

**APPROVED February 6, 2008
CITY OF DeBARY
CITY COUNCIL**

George Coleman, Mayor

ATTEST:

Stacy Tebo, City Clerk