

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
March 5, 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 7:01 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, Parks & Recreation Director John Fletcher and City Attorney Kurt Ardaman

III. Public Participation For Any Issues Not On the Agenda

Van Conoley, 25 Rosedown Boulevard, made a suggestion that the Council ask the City Manager to give a one-page summary on any topic they desire and give clear direction.

Mary Lee Atkins, 283 E. Constance Road, voiced concern regarding the drainage project going on in her area and questioned the ownership of Tropic Lagoon. Ms. Courson said that she would have the engineer out to visit Ms. Atkins within the week; that they would have her property stakes returned to her yard; and that the lake still belongs to the original developer.

Pete Lynch, 115 Amberglow Court, asked when the City planned to begin enforcement of the dumpster enclosure ordinance. Ms. Courson responded that the first round of certified letters have been sent out, and they are going through the code enforcement process.

IV. Approval of Minutes

1. Special City Council Meeting held February 20, 2008.

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

2. City Council Workshop held January 30, 2008.

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

V. Presentations

None.

VI. 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.*

None.

VII. 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 #03-08 – Second Reading – Small Scale Future Land Use Map Amendment on 9.64 Acres at the Northeast Corner of Highbanks Rd. & 17-92 for DeBary Corner Business BPUD (Walgreens).

Mr. Ardaman read Ordinance #03-08 aloud by title.

David Dunne, GAI Consultants, explained the land use change to the Council.

Mark Watts, representative for the applicant, reminded the Council that the application covered the entire property due to the inconsistencies with the mapping.

Mary Lou Croteau, 151 Spring Glen Drive, asked the size of the proposed buildings on the site. Mr. Dunne clarified the exception to the 5,000 square foot limitation for the corner of Highbanks and 17-92. Ms. Croteau also asked about backfill, the stormwater situation on the property, and the possibility of a perimeter fence around the property. Mr. Watts answered that there would be no backfill into No Name Lake; that they would provide a 25-foot buffer around the lake; and that they would look into the issue of people trespassing on the property and launching boats.

David Hamstra, stormwater engineer with PEC, explained that Walgreens must retain 100% of its stormwater runoff, and the pond was designed to handle current and future development.

Council Member Marks said at the first reading he was unaware of all the facts, and moved to deny Ordinance #03-08. Council Member Erickson seconded. Council Member Marks stated that the project does not conform to the City's Comprehensive Plan.

Mr. Watts reiterated that the portion of the site where the Walgreens is located was already commercial/retail and does conform to the comprehensive plan.

Council Member Lenzen said he disagreed with Council Member Marks and the proposed land use is best suited for that intersection. Council Member Carson agreed and said that the project is a great improvement to the area.

Council Member Erickson voiced his confusion regarding the corner being in the Commercial Village Overlay and Walgreens exceeding the 5,000 square foot limit.

Mr. Dunne pointed out that there is an exception for that corner that permits Walgreens to exceed 5,000 square foot, and the other two building sites are not within the Village Overlay District.

Mayor Coleman asked for a vote on the motion to deny. The motion failed 2-3, with Mayor Coleman, Vice Mayor Carson and Council Member Lenzen dissenting.

Council Member Lenzen moved to approve Ordinance #03-08. Vice Mayor Carson seconded. The motion passed 3-2, with Council Member Marks and Council Member Erickson dissenting.

2. Ordinance #04-08 – Second Reading – Rezoning from PUD (Planned Unit Development) to BPUD (Business Planned Unit Development) for DeBary Corner Business BPUD (Walgreens).

Mr. Ardaman read Ordinance #04-08 aloud by title.

Council Member Erickson asked about the phases of development listed in the development agreement. Mr. Dunne answered that Walgreens is phase one, and development of the other two sites would be two and three. He further noted that there would be no fast food restaurant allowed on Highbanks east of Walgreens.

Council Member Erickson questioned the 720-day expiration of the agreement. Mr. Dunne responded that it is listed in the Land Development Code, Section 3-108.

There was Council discussion regarding the traffic impact of the development.

Mr. Watts explained the process that the applicant was involved in to bring it to the Council.

Mayor Coleman entertained a motion for approval. Motion made by Vice Mayor Carson and seconded by Council Member Lenzen. Motion passed 3-2, with Council Member Erickson and Council Member Marks dissenting.

3. Ordinance #05-08 – First Reading – Amending Chapter 38 Solid Waste of the DeBary Code of Ordinances.

Mr. Ardaman read Ordinance #05-08 aloud by title.

Ms. Courson explained that the City has received complaints regarding dumpsters being serviced at 4 a.m., but the current section of the code does not address collection times for commercial or industrial areas.

Council Member Marks moved to approve Ordinance #05-08 on first reading, but asked that the ending time be changed to 9 p.m. Council Member Lenzen seconded. The motion passed unanimously.

VIII. Growth Management and Development Review

1. Request from Missionaries of Hope, Inc. to Subordinate Code Enforcement Lien.

Ms. Courson gave a brief overview of the code enforcement case to the Council. She explained that the owner is unable to obtain the financing to finish the improvements because of the code enforcement lien, and the bank has asked the City to subordinate the code enforcement lien.

Dr. Marcelo Anayas, property owner, addressed the Council and stated that he recently learned of the code enforcement action while he was in the Phillipines.

Mayor Coleman asked how the agreement would affect the City. Mr. Ardaman answered that it would place the City at a disadvantage if the owner defaults on the mortgage. Ms. Courson said that they would need an appraisal and a title search to establish the worth of the property to determine if the code enforcement lien would be secure.

Jeremiah Owens, CPH Engineering, asked if they could stop the fine if the Council wants to postpone the issue for another month. Mr. Ardaman suggested that the Council might keep it in mind that they were here in March trying to resolve the situation later when they ask for an abatement of the lien.

Council Member Erickson moved to deny the request. Council Member Marks seconded. The motion passed unanimously. Ms. Courson asked if she could bring it back to Council if the applicant comes forward with an alternative request, including an appraisal and title search. The Council had no objection.

2. Riviera Bella Unit 2B Partial Replat.

Ms. Courson explained that the item had previously been reviewed and approved by the County. She said that approval should be conditioned upon the City Attorney's letter of November 16th.

Roger VanAuker, representative for Riviera Bella, explained that he wants to get it ready to record and is in agreement with the conditions referenced by the City Attorney's office.

Mayor Coleman entertained a motion for approval. Council Member Lenzen moved to approve the request conditioned upon satisfying the City Attorney's comments. Vice Mayor Carson seconded. The motion passed unanimously.

IX. Old Business

1. Request from Tim O'Neil for Reconsideration of Lot Purchase for Stormwater Capital Improvements Project.

Mr. O'Neil asked the City to purchase his property or discontinue using it. Ms. Courson explained that the County's vacuum truck was using the concrete pad, and she has asked Road & Bridge to discontinue the practice.

Council Member Lenzen said he believes that the lot is unbuildable and worth approximately \$20,000.

Ms. Courson advised that the average between the City's appraisal and the Property Appraiser's valuation is \$23,736.

Council Member Marks moved to approve the purchase of the lot for \$23,736, plus half the closing costs, not including the City Attorney's review. Council Member Lenzen seconded. The motion passed unanimously.

2. River City Nature Park Improvements.

Ms. Courson said there is \$112,00 in the budget to make improvements, and staff is looking for Council direction with regards to which improvements they would like addressed. She added that the CDBG money must be spent on handicap spaces.

Council Member Marks said he would like to install the fence only. Ms. Courson asked which fence the Council preferred to install.

Parks and Recreation Director John Fletcher stated that the pressure treated wood fence was his first choice. There was extensive Council discussion regarding the various fencing options. Vice Mayor Carson stated that the vinyl coated chain link fence was his preference; that fencing would be the first priority; that the park also needs restroom facilities; and that later on a pavilion should be installed.

Council Member Lenzen disagreed with Vice Mayor Carson and said he preferred the rustic-style fence. Council Member Erickson agreed.

Vice Mayor Carson made a motion to approve the purchase of the black vinyl coated chain link fence without a top rail. Council Member Marks seconded. The motion passed 3-2, with Council Member Erickson and Council Member Lenzen dissenting.

Mr. Fletcher asked the Council if the spots identified at the recent workshop were okay for the handicap parking spaces. Council Member Erickson stated that if they placed the spaces there, then they would be locked into having the pavilion at that location. He asked Mr. Fletcher to provide additional options. Mr. Fletcher said he could bring back more information regarding handicap parking space locations in April.

3. Discussion of West Side Emergency Flood Management System Generators – David Hamstra (PEC).

Mr. Hamstra stated that the Council has three options: not install any generators, install a large backup generator at the DOT pump, or install a generator at all three locations. He recommended either a portable or stationary generator at the DOT pump.

Mr. Hamstra suggested that the Council wait and see the bids for the West Side System, due to the nature of the construction industry, and decide at that time whether they wish to purchase any generators. There was consensus from Council to wait for the bids.

Mr. Hamstra updated the Council on his meeting with the County and stated that they agreed to reimburse the City \$1.6 million because they had to upsize the last two phases of the system to handle the extra water.

4. Discussion of Requests to Reduce or Waive Code Enforcement Liens.

Council Member Marks stated he would like to establish a policy for handling such requests. He suggested a sliding scale based on months taken to reach compliance.

Council Member Lenzen stated that code enforcement liens are not a revenue source for the City, and each case needs to be addressed individually due to varying circumstances.

Council Member Marks made a motion that the Council establish a policy for reduction requests starting at five percent per month with a maximum of fifty percent, with the ability for Council to retain flexibility based on individual circumstances. Council Member Erickson seconded. The motion passed 4-1, with Council Member Lenzen dissenting.

X. New Business

1. Award of DeBary Drive Capital Improvement Drainage Project, Bid No. 01-08.

Lynn Gibson, project engineer with GAI Consultants, outlined the bid process for the DeBary Drive project. He stated that he checked out the contractor's references and recommended that the bid be awarded to Wal-Rose, Inc. for \$238,320.

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

2. Verona Road Property Purchase for Stormwater Capital Improvement Project.

Ms. Courson said there is an existing sinkhole in the area, and that to prevent future development, she recommends the purchase of the property. Council Member Erickson moved to approve, and Vice Mayor Carson seconded. The motion passed unanimously.

3. Discussion of City Charter (Council Member Erickson).

Council Member Erickson stated that due to the hour, he would prefer to discuss it at a Council workshop. Vice Mayor Carson stated that he did not wish for the Council to engage Marilyn Crotty to facilitate a goal workshop and suggested that the Council members handle it themselves. Ms. Courson stated that she needs clear direction from the new Council regarding what goals they wish to accomplish.

Vice Mayor Carson recommended that each Council member submit a list of goals to staff and then the Council could discuss the goals as a whole. Ms. Courson stated that she could compile the lists, and then the Council could rank them at a 6 p.m. workshop on April 2nd. There was no objection from the Council.

4. Council Direction for Recommendations Regarding Public Hearings and Growth Management Agenda Items (Council Member Erickson).

Council Member Erickson discussed his reasoning for wanting written staff recommendations. Mr. Ardaman stated that a citation to policy would be helpful when defending the City's position; that it does create an issue when the City goes to court for denying an application that the staff has recommended for approval; but that the issue is not insurmountable.

Due to the hour, further discussion of this item was postponed until the next meeting.

XI. Council Member/Committee/Staff Reports

1. Board / Committee Appointments
Historic Preservation Advisory Board
Regular Member Mayor Coleman

Mayor Coleman appointed Joyce Kelley to the Board, and there was no objection from the other Council members.

2. Member Reports/Communications
 - A. Mayor and Council Members – Discussion of Council Webcasts (Council Member Erickson).

The Council members briefly noted the meetings they attended, and Mayor Coleman reminded everyone of the upcoming Youth Celebration of the Arts at Gemini Springs. Council Member Erickson’s webcast discussion was postponed until the next meeting.

B. City Attorney

Mr. Ardaman noted that he received the Attorney General’s opinion regarding the website issue; that he had forwarded it to Council; and that essentially, the Attorney General agreed with his position.

C. City Manager

Ms. Courson had nothing further to report.

XII. Adjournment. The meeting adjourned at 11:00 p.m.

**APPROVED April 2, 2008
CITY OF DeBARY
CITY COUNCIL**

George Coleman, Mayor

ATTEST:

Stacy Tebo, City Clerk