

**City of DeBary
SPECIAL CITY COUNCIL MEETING**

Monday

March 10, 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, and Assistant City Attorney Dan Langley

III. Public Participation For Any Issues Not On the Agenda

None.

IV. Approval of Minutes

None.

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. Request for Special Exception from Highbanks Marina to Incorporate New Fire Protection Standards CONTINUED FROM FEBRUARY 20, 2008.

Mr. Langley read Resolution #08-06 aloud by title.

David Dunne, GAI Consultants, outlined the request for the amendment to the existing special exception. He noted that all parties are in agreement with the resolution except for the applicant's objection to Section 2, Condition B, iv, which stipulates a ten-year amortization period.

Council Member Marks asked for a definition of temporary. Mr. Dunne responded that the definition would depend on whether the Council wished to accept the ten-year amortization period listed in the resolution, or if the Council accepted the applicant's request for a phasing out based upon market conditions. Council Member Marks stated he did not like the ten-year period.

Mark Watts, attorney for Highbanks Marina, said that of the initial 76 violations, they have reduced the number to 27, but they require the amendment in order to apply for the permits. He stated that the units referenced on Exhibit B cannot meet the seven-foot separation; that they are willing to execute a hold harmless agreement to protect the City; that they request Council not to include the ten-year amortization period, and instead allow the market to dictate; that within nine months all building permits must be completed and inspected; and that within nine months they would ensure all perimeter buffers are clear as required.

Jim Morris, attorney for the River Bluff Homeowner's Association, voiced his client's opposition to the resolution and submitted written information to the Council. He added that the Council could not successfully enforce the resolution as presented; that they need to have a survey as initially proposed by the city attorney's office; and that the hold harmless agreement does not prevent the City from being sued.

Max Jones, 421 River Bluff Circle, said he has lived at his current address for ten years and does not have a problem with the Highbanks Marina.

Diedra Sullivan, 488 W. Highbanks Road, stated she loves living at the Marina and asked the Council to ensure she does not lose her home.

Martha Woods, 488 W. Highbanks Road, said the typical residents at the Marina are retired professionals; that anything the Council does or does not do should not affect the residents' quality of life; and they should not keep them on pins and needles waiting for a decision.

Terry Cumberledge, 24 River Bluff Trail, noted that there are sixty lots that do not have the ten-foot separation; that the management has allowed things to be piled on top of one another to their financial gain; and that the resolution needs to have some teeth.

Jay Erndl, 74 River Bluff Trail, spoke against the Council's approval of the resolution and pointed out an inconsistency in the resolution. He said that it would not make sense for someone to spend \$50,000 to \$100,000 for improvements, and then have it replaced.

Mr. Watts noted that many of the units not meeting the ten-foot separation were permitted by Volusia County. He added that they have worked to resolve the issue for a long time to protect the residents and the City by coming up with a strategy to solve a problem that has existed for many years.

Mr. Morris said that the Marina's plan of 1982 had an original plot plan, and it is imperative for the Council to require a survey rather than a sketch because a sketch is uncertain.

The Council disclosed ex-parte communications at this time.

Volusia County Deputy Fire Chief Kathy Weaver stated that they have agreed with the applicant's fire engineer.

Council Member Lenzen stated that to resolve the problem, there must be compromise between all the parties involved. He said he did not like the language on the top of page three regarding an "attempt to meet the minimum", and he suggested striking "to attempt" from the sentence.

Mayor Coleman voiced his unwillingness to let the situation continue for another five or ten years. Mr. Langley noted that the contents of the resolution are not an endorsement by staff, and it is completely up to the Council to decide what period of time the Marina would be allowed to phase out those particular units.

Mr. Watts said he is aware of only one occupied unit located in the northern buffer area, but all of the other encroachments could be moved very quickly to maintain the thirty-foot buffer area.

Council Member Lenzen stated the temporary phase-out should be linked to the transfer of ownership. Mr. Langley advised it would be difficult to enforce because the trailers are not considered real property, and such transfers are not recorded in the public records.

Council Member Erickson suggested using the code enforcement fine to fix the problem and move the units around the park.

Mr. Morris suggested that he and Mr. Watts work together to achieve a compromise and schedule a workshop with the Council to come to a resolution.

Council Member Marks made a motion for the Council to hold a workshop to discuss the issue on April 23rd at 7:00 p.m. Council Member Erickson seconded. The motion passed unanimously.

Council Member Marks moved to continue the public hearing until May 7th at 7:00 p.m. Council Member Erickson seconded. The motion passed unanimously.

VIII. Growth Management and Development Review

None.

IX. Old Business

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

Council Member Erickson made a motion to direct staff to provide written recommendations on agenda reports as he discussed at the prior meeting. There was discussion regarding his motion by the other members. Due to lack of a second, the motion died.

X. New Business

None.

XI. Council Member/Committee/Staff Reports

1. Member Reports/Communications

- A. Mayor and Council Members – Discussion of Council Webcasts (Council Member Erickson).

Council Member Erickson said that currently the City is provided two meetings per month for \$500, and he is interested in increasing the webcasts. Ms. Courson stated that the vendor would charge \$100 for an extra meeting if needed.

Council Member Erickson made a motion to increase the number of webcasts from two to three per month. Council Member Lenzen seconded. The motion passed unanimously.

Council Member Carson noted that the Little League Opening Ceremony is scheduled for Saturday.

Council Member Erickson asked the other members if they were interested in meeting on Saturday morning to have a workshop. The other members agreed to attend for a roundtable discussion of the City's goals.

- B. City Attorney

Mr. Langley had nothing to report.

- C. City Manager

Ms. Courson had nothing to report.

XII. Adjournment. The meeting adjourned at 9:28 p.m.

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

George Coleman, Mayor

ATTEST:

Stacy Tebo, City Clerk