

**City of DeBary  
CITY COUNCIL WORKSHOP**

**Wednesday**

**May 7, 2008**

**6:30 PM**

Florence K. Little Town Hall

12 Colomba Road

DeBary, Florida 32713

**MINUTES**

**I. Call to Order**

Mayor Coleman called the workshop to order at 6:30 p.m.

**II. Discussion Regarding DeBary Town Center Planned Unit Development**

Ty Harris, representative for DeBary Downs, stated that they have not filed a zoning application with the City, but they wish to receive feedback from the Council and residents regarding the project. He reiterated that the project is not a casino, and there is a lot of misinformation being distributed in the community.

Mr. Harris stated that the project is proposed on the 67-acre parcel known as the DeBary Town Center, which was previously approved as mixed use commercial with a multi-family component. He said that the DeBary Downs project would include a hotel, card room, farmer's market, shops, and a racetrack for horses. He added that the facility would embrace the agricultural heritage of Volusia County.

Mr. Harris noted that the proposed use would decrease peak traffic loads and reduce the need for services, due to the deletion of the residential component. He said that they planned a transition area between Gemini Springs to create a softer edge and keep the commercial area away from the springs and trailhead.

Mr. Harris explained the architectural style and added that it is reminiscent of old Florida. He stated that the horse business generates three billion dollars annually in Florida; that the first phase would create 70 to 100 jobs; that the estimated funds to the City would be \$400,000 to \$600,000 in the first year; and that the only game that would be played in the card room is poker.

Jeff Rapson, project designer for DeBary Downs, explained the proposed layout of the property to the Council.

Mayor Coleman thanked Mr. Rapson and Mr. Harris for taking the time to come and speak to the Council regarding the project.

**III. Adjournment**

The workshop adjourned at 6:56 p.m.

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

**George Coleman, Mayor**

**ATTEST:**

**Stacy Tebo, City Clerk**

**City of DeBary**  
**REGULAR CITY COUNCIL MEETING**  
**Wednesday**  
**May 7, 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, Assistant City Attorney Dan Langley, and City Attorney Kurt Ardaman

**III. Public Participation For Any Issues Not On the Agenda**

Lee Atkins, 283 E. Constance Road, voiced concern regarding dumping into Tropic Lagoon, tree damage due to water drainage, the material used to replace the road near her home, the setback lines, and the validity of the County and City removing trees in the right-of-way. Ms. Courson said she would send Ms. Atkins a letter answering her questions and addressing her concerns.

Danny Allen, 140 Fort Florida Road, updated the Council on the Volusia Growth Management Commission (VGMC) and said that VGMC wanted an opinion on dual office holding from each of the cities.

**IV. Approval of Minutes**

1. City Council Workshop held April 23, 2008.

Mayor Coleman entertained a motion for approval. Council Member Erickson stated he had a small change to page two and verbalized it for the Council. Council Member Erickson moved to approve the minutes as amended, and Vice Mayor Carson seconded. The motion passed unanimously.

## **V. Presentations**

1. Plaque of Appreciation to Marion Lane for Volunteer Service on the Public Safety Advisory Committee.

Mayor Coleman presented the plaque to Marion Lane for her years of dedication to the City.

Mayor Coleman stated that he received a request to move item number one under Old Business to the front of the agenda and asked the Council for a motion. Council Member Erickson moved to reorder the agenda and Council Member Marks seconded. The motion passed unanimously.

## **IX. Old Business**

1. Discussion of City Manager by Council Member Erickson.

Council Member Erickson questioned Ms. Courson's actions regarding the Development Review Committee and the Comprehensive Plan. He stated that the Dollar General Store should never have been presented to Council, and he believes it warrants termination of the City Manager. He added that the parks and government building impact fee ordinance does not comply with the City's Comprehensive Plan and should never have been adopted. He said this also warrants termination because Ms. Courson knowingly asked the Council to pass something directly in conflict with its Comprehensive Plan. He said he has no confidence in the City Manager due to inconsistencies and inaccuracies in her work. Council Member Erickson moved to terminate the Ms. Courson. Council Member Marks seconded and said he also had some comments to make.

Mark Meister, 146 Pine Tree Drive, spoke in favor of Ms. Courson and thanked her for the work she has done for the City.

Rob Sullivan, 59 Lake Drive, said he hoped the Council would vote to support the City Manager and move on to the business of the City.

Bob Garcia, 101 Sunrise Blvd., said Ms. Courson is the most dedicated City Manager he has ever met; that she is an asset to the City; that she always addresses his concerns; and that her office is always open to the citizens.

John Wilson, 114 Pine Valley Court, said that any disciplinary hearing should be based on performance and measurable and quantifiable criteria. He requested that all the elected officials, department heads, and their assistants provide the following information for the public record: education levels, degrees attained, career experience, supervisory experience, and budgetary planning experience. He stated that Ms. Courson has the experience to run the City and asked the Council to get back on track and serve all the citizens of DeBary.

Rick Dwyer, 154 Hickory Stick Court, stated that he has observed Ms. Courson making recommendations that the Council has not followed; that she is always cordial and helpful; that one or two infractions do not justify her removal; and that she is a valuable asset to the City.

Gertrude DeSantis, 161 Maple Drive, voiced her support of Ms. Courson and said that although they have had their differences, she respects her, and the Council would be crazy to get rid of her.

Laura Lee Clark, 466 Fort Florida Road, stated she supports Ms. Courson, and her door is always open to the citizens. Ms. Clark said that her understanding of the codes is that they should be used as a guideline and are interpretive in nature.

Tino Farjad, 45 Alicante Road, said he has been a resident for eight years and has seen wonderful changes in the City of DeBary due to Ms. Courson, who has given many years of her life to the City. He asked Council Member Erickson to look much deeper and find better solutions before deciding to terminate her.

John Wanamaker, 102 James Pond Court, spoke in support of Ms. Courson and said he has volunteered his time for the last three years to work with staff on the new city hall. He stated that the city attorney would have advised the Council that it was improper if the impact fees were not legal.

Mayor Coleman said he had several letters from citizens in support of the city manager and listed their names.

Council Member Lenzen stated he had not heard evidence to warrant immediate termination of the City Manager; that DeBary's Comprehensive Plan is subject to interpretation, so he does not believe it was blatant disregard; that he is troubled because a lot of Council Member Erickson's facts are based on a former disgruntled employee's statements; and that if the City hires another City Manager, they will certainly pay much more than what Ms. Courson is paid.

Vice Mayor Carson said that Ms. Courson is honest, he respects her for doing the job that she does, and he does not support her termination.

Mayor Coleman said Ms. Courson has a lot of experience, is well-respected, is an asset to the City, and has his full support.

Council Member Marks said that Ms. Courson attempted to double the stormwater bond from \$10 to \$20 million without informing the public or Council; that she attempted to influence voters on the stormwater referendum and advertised it on the city website; that she supported the PAC to work against the VGMC using taxpayer money; that she should not have allowed Walgreens to come to Council because it is in conflict with the Comprehensive Plan; that she mishandled the issue with the removal of Jay Erndl from the VGMC; and that she knowingly makes decisions that go against the rules.

Council Member Erickson said that everything he presented was factual.

Mr. Ardaman informed the Council that if they decided to remove Ms. Courson, they would have to pay a severance package.

Council Member Erickson said he wished to retract his motion for removal of Ms. Courson. Council Member Marks said he would not retract his second. Mayor Coleman

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

## **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 #06-08 – Second Reading – Amending Chapters 1 and 3 of the Land Development Code for Canvas Carports.

Mr. Ardaman read Ordinance #06-08 aloud by title.

Mayor Coleman entertained a motion for approval. Council Member Erickson suggested that it might be posted on the City’s website and made a motion to approve the ordinance. Council Member Marks seconded. The motion passed unanimously.

2. **Ordinance #02-08 – First Reading – Rezoning 328.9 Acres on the West Side of Fort Florida Road Approximately One Mile from the Intersection with Barwick Road from A-2 (Rural Agriculture) and RC (Resource Corridor) to RPUD (Residential Planned Unit Development) for Country Estates at River Bend.**

Mr. Ardaman read Ordinance #02-08 aloud by title.

Brian Nelson, with GAI Consultants, explained the rezoning application to the Council.

Ty Harris, representative for the applicant, stated that the attorney for the interveners has requested a few changes to the development agreement. He asked if they could come back to Council between first and second reading to incorporate the requested changes.

Joe Krzys, partner with St. Johns LLC, showed a brief presentation to the Council, outlined the specifics of the project, and thoroughly explained the details of the stipulated settlement agreement with the Department of Community Affairs.

Mr. Harris noted that the conservation easement is included as an exhibit to the development agreement.

Mayor Coleman asked if there was a timetable for the installation of the water lines. Mr. Krzys answered that he anticipated it would be about a year after the PUD is approved.

Council Member Marks asked for clarification of the definition of accessory structures as listed in the development agreement. Mr. Harris responded and said they could remove the word “etcetera” from page six. There was further discussion from Council Member Marks regarding changes in the wording of the development agreement.

There was discussion regarding the paving of Fort Florida Road. Mr. Krzys said they have been meeting with residents and other landowners to discuss the fair share agreement.

Mr. Langley stated that comprehensive plan policy 5.408 contained in the packet is not inclusive of all the conditions agreed to in the DCA stipulated settlement agreement.

Council Member Erickson asked Mr. Harris questions regarding the development agreement and clarified gross acreage versus net acreage.

Ryan Rinaldo, 161 W. Highbanks Road, voiced his opposition to the project and informed the Council of his plans to circulate a petition.

Morton Culligan, 66 Tanglewood Road, stated that development is all about destruction.

Michael Woodward, representative for Fredric Hitt, Seminole Audubon Society, and Save the Manatee Club, pointed out some issues with the language in the proposed development agreement. He distributed a handout to the Council with additional language that his clients desire to be included in the development agreement.

Kathy Krasnoff, 414 River Drive and representative of RCARD, submitted a statement of support from RCARD to the Council for the River Bend development.

Sid Vihlen, Jr., 418 River Drive, spoke in support of the project and urged the Council to work on the paving of Fort Florida Road.

Vance Scott, 446 River Drive, voiced his support of the development and agreed with Mr. Vihlen on the dangerous condition of Fort Florida Road.

Tony Merenda, 462 River Drive, spoke in favor of River Bend, but voiced concern that there would be a section of Fort Florida Road between Riviera Bella and River Bend that would not be paved.

Laura Lee Clark, 466 Fort Florida Road, said that there are deplorable conditions at her house including unusable water, an unsafe road, and massive quantities of dust in the area. She urged the Council to move the project along.

Vice Mayor Carson moved to approve Ordinance #02-08, subject to bringing back revised documents with staff recommendations. Mr. Harris said they could have an interim meeting before the second reading to review the various changes that have been proposed. Council Member Lenzen seconded. The motion passed unanimously.

The Council agreed to hold the interim workshop from 6:30 to 7:30 p.m. on May 21, 2008.

3. Request for Special Exception Amendment from Highbanks Marina to Incorporate New Fire Protection Standards CONTINUED FROM MARCH 10, 2008.

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

Andrew Valente, fire consultant for the Highbanks Marina, explained the advantage of the dry hydrants and stated that they are adequate to fight any future fires in the Marina. He clarified the updates of the NFPA codes, and stated the 2004 edition would become effective on May 18<sup>th</sup>. He reiterated that the life safety code allows for an equivalent level of protection.

The Council disclosed their ex-parte communications.

Council Member Marks questioned the radiation formula used by Mr. Valente. Mr. Valente explained the equation that he used for his report.

Due to the time, Council Member Erickson made a motion to extend the meeting to 11:15. Council Member Marks seconded. The motion passed unanimously.

There was further discussion regarding the fire protection code.

Mark Watts, attorney for the Highbanks Marina, stated that he would need more time to make his presentation to Council. Council Member Erickson moved to extend the meeting until 11:45, and Mayor Coleman seconded. The motion passed unanimously.

Mr. Watts highlighted some of the changes his client wished to include in the resolution for the Council, including the deletion of the sunset provision. He clarified the difference between a setback and a buffer, and stated that only the previously permitted buildings would remain in the setback area.

Jay Erndl, representative of the River Bluff Homeowners Association, stressed that the buffer should be maintained, that the property should be fenced as it is shown on the site plan, and the Council should be consistent in their rulings.

Council Member Erickson moved to extend the meeting to 12:00, and Council Member Lenzen seconded. The motion passed unanimously.

John Cumberledge, 24 River Bluff Trail, said that permanent structures should not be allowed in a temporary recreational vehicle park.

Terry Cumberledge, 24 River Bluff Trail, asked the Council to abide by the 1982 special exception, which required buffers.

Peter Nelli, Lot 151 at 488 W. Highbanks Road, voiced his concern that he would lose his home due to the minimal separation between he and his neighbor. He said he feels very safe at the Highbanks Marina.

Richard Brown, 488 W. Highbanks Road, said that the residents should not be kept in limbo any longer, and the Council should make a decision.

Nan Lafferty, 32 River Bluff Trail, stated that she was pleased with the changes to the resolution, but she feels strongly that the north boundary should be fenced.

Mr. Watts discussed the timelines involved for permitting the remaining building violations and the installation of the fire hydrants.

Council Member Erickson made a motion to extend the meeting until 12:10. Council Member Lenzen seconded. The motion passed unanimously.

Mayor Coleman asked for a motion. Vice Mayor Carson made a motion to approve Resolution #08-06 as presented by Mr. Watts and to change the wording of “certificate of occupancy” to “final inspection approval” on page three. Council Member Lenzen seconded. The motion passed 3-2, with Council Member Erickson and Council Member Marks dissenting.

Ms. Courson stated that the rest of the agenda could be carried to the special meeting of May 21, 2008.

### **VIII. Growth Management and Development Review**

1. Request from Missionaries of Hope, Inc. to Subordinate Code Enforcement Lien.
2. Final Site Plan Application from Cinnamon Tree / Pond Court Professional Plaza.

### **IX. Old Business**

1. Discussion of City Manager by Council Member Erickson.

This item was discussed earlier in the meeting.

### **X. New Business**

1. Opt Out of Community Development Block Grant Program (CDBG)

### **XI. Council Member/Committee/Staff Reports**

1. Board / Committee Appointments  
Code Enforcement Board  
Regular Member Council Member Erickson  
Volusia County MPO Citizens Advisory Committee
2. Member Reports/Communications
  - A. Mayor and Council Members
  - B. City Attorney
  - C. City Manager

### **XII. Adjournment.** The meeting adjourned at 12:10 a.m.

**APPROVED July 16, 2008  
CITY OF DeBARY  
CITY COUNCIL**

**George Coleman, Mayor**

**ATTEST:**

**Stacy Tebo, City Clerk**