

City of DeBary
CITY COUNCIL MEETING
Wednesday
November 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 7:00 p.m.

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 David Hooker, Captain Alan Osowski, City Attorney Kurt Ardaman and Assistant City Attorney Dan Langley,

III. Public Participation For Any Issues Not On the Agenda - Citizen comments are limited to three minutes per speaker.

Francisco Diaz, 161 Ambergate Court, stated that he has an erosion problem on his property, and the rain has washed away a hole on the sidewalk and also created a huge hole in his yard. Ms. Courson said that staff is preparing an estimate for the project, but completion of the project is contingent on stormwater funding.

Connie McCandless, 225 Englenook Drive, informed the Council of a flooding issue on her street and requested a meeting with Stormwater Engineer David Hamstra to assist her and her neighbors in resolving the problem. Ms. Courson said she would schedule it within the next week and would email Ms. McCandless with the date.

Margaret Lambert, 387 Glen Abbey Lane, stated she has had a continual flooding problem at her house; that there is retention pond runoff; and that she needs information. Ms. Courson responded that she has the information on her email and would call Ms. Lambert the following day.

Van Conoley, 25 Rosedown Boulevard, thanked Mayor Coleman and Vice Mayor Carson for their years of service to the City. He noted that although he has enjoyed writing to DeBary POP in the past, he would discontinue the practice due to the Sunshine Law and his election to Council. He added that he has been talking with three retired engineers that are DeBary residents, and he hopes they can advise him and the Council on stormwater issues in the future.

Geraldine Bennett, 207 LaMonte Point Court, said she has been out of her home since August due to the flooding and asked about a possible pipe running down DeBary Plantation Boulevard as previously discussed by David Hamstra.

Eugene Stump, 106 Birkwood Court, voiced concern regarding the entrance pond at the DeBary Golf and Country Club and said he was worried it would flood again.

Morton Culligan, 66 Tanglewood Road, said that the flooding problems in DeBary began when people bought low-lying land; that one percent of the City flooded during Fay; and that 99 percent of the City should not have to pay for others' problems.

Danny Allen, 140 Fort Florida Road, gave the Council a VGMC update and said they mailed out all the cities' comments on the proposed amendments. He also questioned how the stormwater runoff from the recently approved Ranger Construction application finds its way to the river. Mr. Hamstra responded that he did walk the property and explained the flow of water from the property to the river.

Tina Rose, 122 Pine Valley Court, said that everyone in the City is affected by flooding, even if his or her home did not flood. She voiced her appreciation for the time that the staff and Council are dedicating to solving the flooding problems.

IV. Approval of Minutes

1. Regular City Council Meeting held September 3, 2008.

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

V. Additions, Deletions, or Amendments to the Agenda

David Hamstra of Professional Engineering Consultants provided a stormwater update to the Council at this time. He listed the lakes that are still being pumped, noted that there are 25 pumps in use currently, and estimated pump usage for another two months. He also explained the requirements of the emergency permit from St. Johns River Water Management District (SJRWMD).

He informed the Council that he would be meeting with Volusia County on November 10th to discuss the details for the borrow pit. He also stated that FEMA has asked for a letter of match assurance from the City to build the whole West Side System in a year and five months, regardless of cost.

He explained the Local Mitigation Strategy Committee and stated that the Committee's next meeting would be on the 18th prior to submitting the projects to FEMA.

He stated that the DeBary Villas and Glen Abbey Club grant applications are still pending with the National Resource Conservation Service.

VI. Presentations

1. Certificate of Appreciation to the DeBary Garden Club.

Mayor Coleman read the certificate aloud to the audience and presented it to members of the DeBary Garden Club.

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.*

None.

VIII. 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 #02-08 – Second 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
CONTINUED FROM OCTOBER 1, 2008.

Council Member Erickson said he had spoken with Joe Krzys about the status of his property following the storm. Council Member Marks added that Mr. Krzys had forwarded his engineer's report to the Council.

Mr. Ardaman read Ordinance #02-08 aloud by title and noted that the prior Council members' comments were meant to apply to the second reading of the ordinance.

Ty Harris, attorney for the applicant, addressed the Council and stated that Lynn Bedell was present to represent St. John's Partners because Mr. Krzys was out of town due to the death of a close friend. Mr. Harris said that they have an agreement in principal, but do not yet have an executed fair share agreement with Empire Cattle. He added that there is a contingency in the development agreement if the fair share agreement is not signed within twenty days.

Mr. Langley highlighted the changes that occurred between first and second reading for the Council. He explained the contingency if the fair share agreement is not executed within twenty days and added that the developer would be building everything under schedule B.

Council Member Erickson said he is uncomfortable with the contingency in the development agreement because it places the City in a poor position for negotiations in the future.

Ryan Rinaldo, 161 W. Highbanks Road, stated that Florida voters are leaning towards conservation, and people seem to be in favor of the River Bend project solely for the benefit of the capital improvement projects that come with it.

Sid Vihlen, Jr., 418 River Drive, voiced his support for the River Bend project and his desire for the paving of Fort Florida Road.

Mark Watts, representative for Empire Cattle, confirmed the status of the fair share agreement as stated by Mr. Harris and said he believed the agreement would be executed within twenty days.

The Council discussed the options in the development agreement and there was consensus that the contingency was not desirable to the Council.

Council Member Marks made a motion to continue Ordinance #02-08 to December 3, 2008 at 7:00 p.m. Council Member Lenzen seconded. The motion passed unanimously.

2. Amendment to Resolution #08-06 – Request by Mark Watts and the Highbanks Marina for an Extension to the Deadlines for Compliance CONTINUED FROM OCTOBER 15, 2008.

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

Ms. Courson stated that the Marina paid the City the outstanding invoices as discussed at the Council meeting held on October 15, 2008.

Mr. Watts requested that the interest charged to the Marina be waived.

There was discussion regarding the pass through ordinance. Council Member Lenzen stated that the Council should look at the ordinance at a later date.

Council Member Erickson made a motion to approve a three-month extension for the installation of the fire hydrants and a three-month extension for final inspection approvals. Council Member Lenzen seconded. The motion passed unanimously.

3. Request for Variance, Special Exception and Final Site Plan by the Reading Edge Academy.

Brian Nelson, planner with GAI Consultants, explained the request by Reading Edge Academy for three variances, a special exception and a final site plan approval.

Millie Piper, 247 Bayou Circle, stated she is the owner of Villages at DeBary, which adjoins the Reading Edge Academy property. She voiced concern regarding Pond Court, the size of the landscape buffer, the fencing material that would be installed, and traffic on Enterprise Road.

Denise Duke, 72 Spring Lake Drive, said she lives directly behind the school and would like to see the drawing for the final site plan.

F. C. Akers, 70 Spring Lake Drive, said he does not support the school's request.

J.R. Hall, 68 Spring Lake Drive, said that the noise levels have increased in the area since he moved there in 1994. He stated that the school could redesign the existing building to accommodate the growth of the business without the variances.

Council Member Lenzen said there should be a masonry wall on the east side of the property to buffer the school from the residential area.

Mr. Nelson stated that the applicant would like an opportunity for a continuance to meet with the neighbors in an effort to resolve their concerns.

Council Member Erickson made a motion to continue the hearing to November 19, 2008 at 7:00 p.m. Council Member Marks seconded. The motion passed unanimously.

IX. Growth Management and Development Review

1. Final Site Plan Application for DeBary Commerce Center.

Mr. Nelson outlined the final site plan for the Council and noted that the application is in compliance with the Comprehensive Plan and the Land Development Code.

Sid Vihlen, Jr., representative for the applicant, stated that it would be the corporate headquarters for Nelson LC and assured Council that he would provide staff with the properly sized landscape plan.

Council Member Erickson made a motion to approve the final site plan with the condition that prior to the issuance of any building permits, the applicant shall submit a revised landscape and irrigation plan. Council Member Marks seconded. The motion passed unanimously.

2. Request for Extensions of Development Orders by Riviera Bella.

Roger VanAuker, representative for Riviera Bella, stated his request for extensions for Unit 3 Preliminary Plat, Overall Development Plan, Unit 2B Partial Replat and amendment of the RPUD to extend the deadline for the development of the entire subdivision. He noted that although the time has not expired, he felt it would be prudent to address the need for an extension ahead of time, as the current economic conditions do not seem to be recovering in the near future.

Council Member Lenzen discussed the paving of Fort Florida Road with Mr. VanAuker. Mr. VanAuker agreed to install the Riviera Bella portion of the paving when the River Bend developer begins his paving, or at the commencement of Unit 4 in Riviera Bella, whichever is earlier.

Ms. Courson stated that the extension to the overall deadline for the RPUD would have to be done by resolution, and the paving discussed by Council Member Lenzen could be written into the resolution.

The Council discussed that they would prefer to address all of the requests at one time. The Council asked Mr. Ardaman to prepare a resolution to include all the requests and the road improvements.

3. Consideration of Request from Thomas & Cheryl Henry to Abate Code Enforcement Lien on Property at 87 S. US Highway 17-92, Case # DEB 06-007.

David Hooker, Neighborhood Improvement Officer, gave a summary of the case, which began in 2005. He explained that there was a misunderstanding between he and Mr. Henry's secretary because there is another property with code enforcement action at 7 S. Highway 17-92 that Mr. Henry owns. Mr. Hooker concurred with the Code Board's recommendation for a reduction to \$500.

Council Member Marks made a motion to reduce the lien to \$500, if paid within thirty days. Council Member Lenzen seconded. The motion passed unanimously.

X. Old Business

1. Stormwater Equipment Storage Building.

Ms. Courson asked if this item could be discussed at the next meeting due to the late hour.

XI. New Business

1. Award of the Magnolia/Aster/Dahlia Stormwater Capital Improvement Project.

Kevin Hare, engineer with GAI Consultants, explained the bid process to the Council and recommended that the project be awarded to Masci Corporation.

Ms. Courson noted that State law requires a payment and performance bond for projects over a certain dollar amount.

Vice Mayor Carson made a motion to approve the award to Masci Corporation for \$364,552 plus the \$48,660 for inspection services. Council Member Lenzen seconded. The motion passed unanimously.

XII. Council Member/Committee/Staff Reports

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

Council Member Lenzen said he attended the luncheon with Congressman Mica and the Ford picnic.

Council Member Marks said he attended the Code Board and the Public Safety meetings. He asked the status of the collapsed pipe. Ms. Courson responded that Mr. Langley is handling it.

Mayor Coleman read a thank-you letter aloud from Cheryl Leahey.

B. City Attorney

Mr. Ardaman briefly reviewed the quasi-judicial process in preparation for the upcoming racetrack hearing and provided a few suggestions for Council consideration. He stressed that the primary focus should be to make sure everyone has an opportunity to be heard.

Council Member Erickson made a motion for a thirty-minute extension of the Council meeting because of the time. Council Member Marks seconded. The motion passed unanimously.

Mr. Ardaman advised the Council to allow all interested persons to be heard at the upcoming hearing to ensure proper due process.

C. City Manager

Ms. Courson stated that Captain Alan Osowski had some information to present to Council regarding truck traffic.

Captain Osowski informed the Council that his office has been handling a large number of complaints regarding prohibited truck traffic in the area of S. Shell Road and Spring Vista Drive. He stated that the signs prohibit vehicles over one ton, which include FedEx trucks, UPS trucks,

school buses, and garbage trucks. He added that it is an unrealistic weight limit to enforce and recommended changing the signage to prohibit semi trucks.

There was Council consensus to change the signs as recommended by Captain Osowski.

XIII. Adjournment

The meeting adjourned at 11:25 p.m.

**APPROVED January 21, 2009
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk