

## REGULAR CITY COUNCIL MEETING

Wednesday

December 5, 2001

7:00 PM

Florence K. Little Town Hall

12 Colomba Road

DeBary, Florida 32713

### MINUTES

#### **I. Call to Order**

1. Invocation
2. Flag Salute

#### **II. Roll Call**

**Members Present:** Mayor Carmen Rosamonda, Vice Mayor Greg France, Council Member George Coleman, Council Member Danny Allen, and Council Member Bill Long

**Others Present:** City Manager Richard Diamond, Assistant City Manager Maryann Yaskanich, and City Attorney Kurt Ardaman

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

Thomas McNerney; 27 Jasmine Drive, DeBary presented photographs of code violations he had observed and wished to offer his services as a Code Enforcement volunteer to the City of DeBary. The County has been asked to provide a proposal for a Code Enforcement Official to perform a minimum of 10-hours monthly of pro-active Code Enforcement.

#### **IV. Approval of Minutes**

1. Regular City Council Meeting held November 7, 2001.

Note was made that the date palms referred to on page 3 were in fact Medjool Palms. Motion to accept the minutes as revised was made by Council Member Long and seconded by Vice Mayor France. The motion carried unanimously.

#### **V. Strategic Planning Reports**

None

#### **VI. Presentations**

1. Ms McFall; County Council, Volusia County, Enterprise Interim Interlocal Agreement.

Also present: Monty Beamer, Director of Planning and Development; Ben Dyer; Comprehensive Planning Manager; Mark Matzinger; President of Enterprise Preservation Society, and Jamie Seaman; Director of Growth and Resource Management.

It was requested that the City of DeBary approve an Interim Interlocal Agreement, in conjunction with the City of Deltona and the County of Volusia, to agree not to annex any property in Enterprise for the next year. The County will be compiling a property inventory of the Enterprise area, several studies will be completed and future development will be reviewed. It was discussed that there were no current plans for any annexation of Enterprise into the City of DeBary by the Council. It was the consensus of the Council to support the efforts of the Enterprise Preservation Society and the Council wishes to review the results of their findings.

Mark Matzinger; President of the Enterprise Preservation Society, spoke in support of the one-year Enterprise non-annexation agreement and stated that the citizens of Enterprise wish to ensure that the character and history of the area is maintained when future development occurs.

## **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. Second and Final Reading – Ordinance No. 10-01 – Rezoning 67.86 Acres Located on the Southeast Corner of Dirksen Drive and South US Highway 17-92 From A-2 (Rural Agriculture) and C (Conservation) to MPUD (Mixed Use Planned Unit Development).

City Attorney Kurt Ardaman read Ordinance No.10-01 by title. Volusia County Planner Scott Ashley stated that the Development Agreement and Master Plan incorporated changes discussed at the Charrette for the Town Center concept; that the proposed zoning changes allow residential development, retail and office use; and that the proposal meets the guidelines under the Comprehensive Plan for the City of DeBary. Discussion was held regarding the calculations of net land use as it pertains to land area used for density calculations and the inclusion of language to clarify the B-3, B-4, and B-9 zoning classification references. Mr. Ashley stated that land usage was restricted to “Permitted Principle Uses;” that the permitted principle uses list for the B-3, B-4 and B-9 zoning could be incorporated in the document and specific land uses could be omitted. On Page 4, the language that any PUD amendments would be classified as minor amendments if the amendment affected 3 acres or less, was questioned. It was clarified that the City Council’s approval would still be required for a minor amendment to the PUD. It was noted that Page 9 included maximums for the number of multi-family units allowed. Mr. Ashley stated that lot coverage percentages exceeded standard lot coverage percentages in order to concentrate buildings which allows larger green areas. Maximums for building heights, approval of architectural styles and feasibility of hotel or motel uses for second floor areas, were discussed. Requirements for parking spaces and storm water areas were reviewed.

Steve Costa, representing Empire Cattle Co., 898 Pine Tree Ct., DeLand, FL, discussed amendments to the Development Agreement made by the City Council Members. City Manager Diamond noted that the Permitted Uses for B-3, B-4, and B-9 zoning, applied to the retail area only and not to the Town Center as a whole. It was stated that architectural and streetscape renderings must be included during the site plan development review process. HDR planners confirmed that “appurtenances” above the maximum building height, referred to on page 15 and 16, applied to non-occupied architectural enhancements such as parapets and roof-mounted appliances. Areas of discussion included timelines for phase development, architectural integrity of multi-family units and apartments and that businesses using hazardous chemicals or fuels would not be permitted. Mr. Costa stated that the current development standards were used to determine net land use areas and that the determination was made on an acreage basis. It was discussed that lot coverage percentages were specific to this concept and differed from the 35% lot coverage norm and that any legal conflict with the requirements of the Comprehensive Plan would need to be resolved. Discussion reviewed development requirements if a City Hall was not built; that traffic elements would follow Streetscape design requirements; what responsibility the Developer would incur for cost differences between DOT standards for signalization and the City-required mast arm signals. City Manager Diamond reviewed City standards for Park and Recreation areas. The number of roads to be turned over to the City was questioned. It was suggested that gable roof requirements be restricted to tile roofs. City Manager Diamond noted that architectural standards and Streetscape requirements would be included in the agreement; that determination of public and private streets could be addressed at the time of platting of the project; that the plan presented was conceptual for zoning purposes only; that additional changes could be addressed at site plan and final plat approvals. City Attorney Ardaman advised that the City should have Gateway Standards in place before final approvals. City Manager Diamond stated that compliance with St. John’s River Water Management District and City development regulations was also required. Mayor Rosamonda entertained a motion to table Ordinance No. 10-01 to February 6, 2002. Council Member Coleman made motion. Council Member Allen seconded. Additional discussion referred to language changes to the document. It was the consensus of the City Council that additional time was needed to review and to suggest changes to the document. Potential conflict with the Development Agreement regarding the placement of a future City Hall was discussed. It was requested that changes be presented and new drafts be made available in a timely manner. The motion carried unanimously.

2. Second and Final Reading – Ordinance No. 12-01 – Adoption of Textual Amendment to the Comprehensive Plan Regarding School Siting and Co-Location Amendment Requirements.

City Attorney Ardaman read Ordinance No. 12-01 by title. Mayor Rosamonda entertained a motion to adopt Ordinance No. 12-01. Vice Mayor France made motion. Council Member Allen seconded the motion. The motion carried unanimously.

3. First Reading – Ordinance No. 27-01 – Vacating a Portion of Spring Glen Unit 2-Continued

City Attorney Ardaman read Ordinance No. 27-01 by title. Mr. Russ Divine, 24 S. Orange Avenue, Orlando representing Pinnacle-Glen Abbey, Inc. presented a proposal from the developer to utilize land in Glen Abbey Club, to replace and satisfy the tree preservation requirements for the area to be vacated. John Gray, President of Pinnacle-Glen Abbey, stated that the area to be vacated would remain open land, regardless of ownership, due to the majority of the property being within No-Name Lake; that the request to vacate is an attempt to stop litigation creating hardship for residents of Spring Glen; and that the developer and title insurance company have been unable to resolve the matter. City Attorney Ardaman requested comment from the County. Joe Waller, County Forester, stated that off-site dedications to meet tree preservation requirements have occurred in other areas; that the intent of the original standards required that 15% of the trees in a development be preserved and protected; and that no mitigation bank is set up for violations of tree preservation standards. Mayor Rosamonda entertained a motion to adopt Ordinance No. 27-01. Council Member Long made motion. Vice Mayor France seconded. The motion carried 3-2 with Council Members Allen and Coleman dissenting.

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

#### **1. Revised Final Site Plan Application 01-F-FSP-0207 – Request by American Legion Post 259.**

Mr. Palmer Panton, Land Development Manager for Volusia County reviewed reductions to the building size and parking area. The developer has requested a reduction of the size of and to change the type of construction of a wall on the property line adjoining the residential area. Council Member Coleman and Vice Mayor France disclosed discussion with residents affected.

John Wanamaker, 102 James Pond Court, DeBary, Florida stated that he was not a developer, but was working as a volunteer with the American Legion on the project; that he had met with Joe Waller, County Forester, to review the property size; that recommendations to meet Land Development Code requirements were followed to create an additional buffer zone and an adjustment to the parking areas was made; that a board on board fence was suggested to obscure the dumpster area, as well as additional plantings. Mr. Coleman had spoken with a member of the Summerhaven Homeowner's Association who did not know of any residents expressing disapproval of the request. Mayor Rosamonda entertained a motion to approve the Revised Final Site Plan Application 01-F-FSP-0207, American Legion Post 259, as provided in the attached plans and letters from Palmer Panton of November 28th and November 30, 2001. Council Member Long made motion. Council Member Coleman seconded.

Discussion was held regarding buffer areas not being maintained over time. City Manager Diamond stated that the current Land Development Code language reads; "preserved native vegetation may be substituted for a fence or wall if it is of sufficient size or density to provide the required screening." Enforcement of Code Violations was discussed. The motion carried 3-2 with Council Member Coleman and Vice Mayor France dissenting.

#### **2. Development Agreement – Springview Industrial Park – Hoffman Brothers, Inc.**

Disclosure was made that Council Members Allen, Long and Coleman had spoken with David Rasmussen, 107 Forest Point Lane, Longwood. Mr. Rasmussen stated that Mr. Hoffman would be willing to sign the Springview Industrial Plat if an accommodation can be made with the City concerning the slope of the existing driveway to Browning Press and any future improvements to Shell Road. Discussion was held regarding property and road maintenance; that the existence of City right-of-way along that portion of Shell Road has not been formally established; whether there would be additional expense to the City for road improvements; that improvements to the west side of Shell Road would require raising the level of the road; that the Plat would provide the prescriptive easement; that an agreement by any effected parties be provided by deed or the subordinate of their interests must be included in the plat language. City Attorney Ardaman had provided a revised Development Agreement. Discussion of driveway maintenance and responsibility was held. Mayor Rosamonda entertained a motion to approve a Development Agreement as provided by City Attorney Ardaman in his letter of December 5, 2001. Council Member Long made motion. Council Member Allen seconded. The motion carried unanimously.

## **IX. Old Business**

1. Selection of Alternate Median to Replace Originally Proposed Median at Meadors Lane for S. Hwy 17-92 Beautification.

City Manager Diamond stated that permits and bids had been obtained for the original configuration; that DOT has plans to extend the turn lane at Barwick Road, which has eliminated the usability of one median; that Staff is now proposing to improve the first two medians north of the intersection of Benson Junction Road/Dirksen Drive with Highway 17-92; that an additional review of the implementation of the streetscape standards may be appropriate before any additional medians are permitted. Mayor Rosamonda entertained a motion to approve staff recommendation for relocation of one of the S. Highway 17-92 median project. Council Member Coleman made motion. Vice Mayor France seconded. Discussion was held to review other median sites. The motion carried unanimously.

## **X. New Business**

1. Resolution No. 01-26 – Adopting a Revised Personnel Manual for the City of DeBary

It was the consensus of the Council to change the order of the agenda and to discuss this item last.

2. Request by Sprint-Florida, Incorporated for Utility Easement

Bill Paul, 163 E. 4<sup>th</sup> Blvd., Winter Park, Florida, sub-contractor for Sprint-Florida stated that upgrades to Sprint phone service required an easement to install cabinets and switching equipment: that a 25 foot by 65 foot perpetual easement was being requested at Gateway Park; that the City would be paid for the use of the easement and a landscaping allowance would be

included. Discussion was held that a perpetual easement could have a negative impact on future development needs; that the location needed to be disclosed to affected residents and that the land was leased to the City. Mr. Paul reviewed the necessity of a safe area for maintenance personnel, the location of current cable, and the need for perpetual easement due to the high cost of equipment installed. Additional discussion suggested that Sprint should request some type of temporary easement or review another location.

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

1. Board/Committee Reports

2. Board/Committee Appointments

A. Board: Teens Advisory Committee Rosamonda - 1  
Term Expires: October 3, 2003 At – Large – 1  
Incumbent: None  
Length of Term: Two (2) Years

Appointments: None

B. Board: Senior Advisory Committee Rosamonda - 2  
Term Expires: October 3, 2003 France - 2  
Incumbent: None Coleman - 1  
Length of Term: Two (2) Years

Appointments: Mrs. Kati Lockney by Mayor Rosamonda.  
Rosemary Obenland by Council Member Allen.

C. Committee: 10–Year Anniversary Celebration  
Term Expires: 30 Days After Celebration  
Incumbent: None  
Length of Term: Per Resolution No. 01-25

Appointments: Rosemary Obenland by Council Member Allen.  
Pat Fulton by Council Member Allen.  
Debbie Rosamonda by Council Member Long.  
Jane Wright by Council Member Long.  
Pat Gunter by Mayor Rosamonda.  
Cathy Holland by Mayor Rosamonda.

Mayor Rosamonda entertained a motion to approve appointments. Council Member Long made motion. Council Member Allen seconded. The motion passed unanimously.

D. Board: Public Safety Advisory Committee Long  
Term Expires: November 7, 2003

Incumbent: None  
Length of Term: Two (2) Years

Appointments: Pat Clouser

Mayor Rosamonda entertained a motion to approve the appointment of Pat Clouser upon her acceptance. Council Member Coleman made motion. Vice Mayor France seconded. The motion passed unanimously.

E. Board: Orlandia Heights Board of Directors  
Term Expires: November 14, 2004  
Incumbent: None  
Length of Term: Three (3) Years

Disclosure was made that Council Members had spoken with Nancy McLane and Tom Bernosky.

Nancy McLane, 127 Azalea Rd., DeBary, Florida stated that she was involved with the Study Committee and was interested in upgrades of the Orlandia Heights roads.

Tom Bernosky, 133 Sanford Avenue, DeBary, Florida, introduced himself. He expressed his involvement and interest in his community.

Discussion of appointments showed the next vacancy for the Board would occur in March; that the current vacancy is for the position of Secretary and that the current applicants were suitable to fill the positions. Mayor Rosamonda entertained a motion to approve Thomas J. Bernosky to fill the position vacated by Elisa Rohr, effective immediately and to approve Nancy W. McLane to fill the position of Mr. Rabey upon his resignation or end of term. Council Member Allen made motion. Council Member Coleman seconded. The motion carried unanimously. Discussion was held on the status of recommendations and studies for the roads in Orlandia Heights. Suggestions included the hiring of a professional consultant to review the procedure, methods and costs of the City taking over the roads, and their maintenance. City Manager Diamond reviewed a proposal received from a consultant for a revision to the City of DeBary's Comprehensive Plan Transportation Element and suggested that they ask the company to revise their proposal to include a proposal for the road in Orlandia Heights.

F. Board: Code Enforcement Board Long  
Alternate  
Term Expires: December 5, 2004  
Incumbent: None  
Length of Term: Three (3) Years

Council Member Long received the resignation of Ray Petit as the Alternate Member of the Code Enforcement Board and nominated Thomas McNerney for the position. Mayor Rosamonda

entertained a motion to accept Thomas McNerney as the Alternate Member. Council Member Coleman made the motion. Vice Mayor France seconded. The motion carried unanimously.

3. Resolution No. 01-26 – Adopting a Revised Personnel Manual for the City of DeBary was heard at this time.

City Manager Diamond stated that the revision of the personnel manual was part of the Annual Goals and Objectives for the City Manager; he presented recommended revisions to the Personnel Manual for the City of DeBary that included revisions to Personnel Policies and Procedures; Employee Benefits and Employee Relations; and an expanded Code of Conduct and Drug Free Workplace Program. That the major revisions to the Manual is a policy change to personal leave days for all exempt and non-exempt employees at current accrual rates instead of sick and vacation days for non-exempt employees; that a survey of surrounding areas indicated an additional holiday be added for employees; that an education benefit be added, to reimburse employees for approved college courses that are job-related; that merit increases, rather than cost-of-living increases, be included in the manual; that merit increases of 3% to 5%, based on performance, be granted to employees for the current fiscal year.

It was discussed that the City Manager be allowed to use his discretion in designating a 10<sup>th</sup> holiday at the beginning of each calendar year, as a floating holiday; that benefit levels for personal leave days, currently in place, were adopted in 1999 which mirrors Volusia County benefit levels; that benefit levels needed further review; that figures for cost-of-living increases should be compared with proposed merit increase percentages; that merit increases should be phrased as a maximum of 5%.

Mayor Rosamonda entertained a motion to approve merit pay increases for the current fiscal year at a maximum of 5%, at the discretion of the City Manager. Vice Mayor France made the motion. Council Member Allen seconded. The motion passed unanimously. Approval of the Personnel Manual was tabled.

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

Council Member Coleman commented on meetings he attended of the Orlandia Heights Board of Directors; that DOT was notified of sidewalks needing repair near 17-92; and that he had received much comment on the Charitable Contributions policy, both for and against.

Council Member Long was thanked for responding to letters regarding the charitable contributions policy. Council Member Long, Council Member Coleman and City Manager Diamond had attended a Citizens for DeBary meeting, at their request, to discuss the policy. Council Member Long read a request that the City Council of the City of DeBary reconsider the adoption of a charitable contributions community grant policy; that adoption of such policy would eliminate future inconsistencies and that an outline of suggested terms and requirements was included. Discussion was held regarding placement of the issue on the agenda for January; that in-kind services was not currently allowed; that if a policy was adopted, no fees would be

collected by the sponsoring organization; that specific contribution limits should be set for such policy. A lack of traffic barricades was noted during the Christmas Parade, that a complaint was received of parking on a lawn at 9 Seminole Drive, possibly by a COP car during the Christmas Parade and that comparison of charitable contribution policies of the sixteen cities in Volusia County would be of benefit to the Council.

Vice Mayor France reviewed the benefit of his trip to Railvolution and how transit issues are handled in communities across the country.

B. City Attorney

City Attorney Ardaman updated the status of lawsuits pending against the City.

C. City Manager

**XII. Adjournment.** Meeting was adjourned at 11:15 P.M.

**Approved January 9, 2002  
City of DeBary  
City Council**

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Carmen Rosamonda, Mayor

**Attest:**

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Maryann Yaskanich, City Clerk