

## REGULAR CITY COUNCIL MEETING

Wednesday

February 6, 2002

7:00 PM

Florence K. Little Town Hall

12 Colomba Road

DeBary, Florida 32713

### MINUTES

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

1. Invocation
2. Flag Salute
3. Proclamation

Mayor Rosamonda presented Leo Wilcox, Boy Scout Troop Leader, Troop 560 and read a proclamation on behalf of the City Council of the City of DeBary; that the Boy Scout's Spring Camporee will be held March 1<sup>st</sup> to March 3<sup>rd</sup> on the St. Johns River Management District Land and that Civic, Government and Environmental groups were invited to participate in the event. Mr. Wilcox reviewed Scout participation in community benefits and thanked the Council.

#### **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.

City Attorney Ardaman introduced Attorney Ashley Brewer attending the meeting on behalf of the City Attorney's office

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

Karen Bergonet, 37 Sackett Rd., DeBary spoke regarding grants to volunteer groups; that her professional field was Non-Profit Program Administration; that she is a member of the Central Florida Regional Grants Professional Network; that she had received grants for projects from Deltona, Deland and Ormond Beach; that she supported a grant program for the City of DeBary; that she would offer her services to assist implementation of any program; and that support of non-profit organizations followed the Strategic Vision for the City of DeBary.

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

1. Regular City Council Meeting held January 9, 2002.

Approval was postponed until March 6, 2002 meeting to review tapes in reference to Page 7, last paragraph, regarding the motion and vote on that issue.

**V. Strategic Planning Reports**

**VI. Presentations**

1. 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. 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 Ardaman read Ordinance No. 10-01 by title. Mayor Rosamonda disclosed phone conversations with Mr. Steve Costa and his attorney, Mark Watts, and that he met with both parties regarding feasibility of the project from a cost standpoint. Council Members Allen, Long, and Coleman disclosed that they had phone conversations from Mr. Costa.

Mark Watts, Attorney with Cobb, Cole and Bell, on behalf of Empire Cattle Company, requested that the Ordinance be tabled until April 3, 2002, to allow the tabulation and review of development costs. It was asked if the developer would allow use of the current Development Agreement by Council Members to solicit opinions from developers and other entities, and Mr. Watts indicated that Mr. Costa would welcome any input. Mayor Rosamonda entertained a motion to table Ordinance No. 10-01 until April 3, 2002 at 7:00 P.M. Motion was made by Council Member Allen. Council Member Long seconded. The motion passed unanimously.

2. First Reading – Ordinance No. 01-02 – Amending Section 828.00 by Changing the Maximum Allowable Lot Coverage for Buildings in Cluster Developments City of DeBary Land Development Code.

City Attorney Ardaman read Ordinance No. 01-02 by title. Council Member Allen and Vice Mayor France disclosed conversations with Mr. Rasmussen. Council Member Coleman disclosed conversations with interested parties. David Rasmussen, representing DeBary Development Corporation, reviewed the stormwater engineering for water retention requirements as it concerns increased lot coverage; that increased lot coverage would not affect the current stormwater engineering for the Springview subdivision; that the requested revision to the Land Development Code applied only to the “cluster” subdivision element of the Zoning Ordinance and only to lots of 50 feet or less in width in a cluster subdivision; that variances for increased lot

coverage had been granted in the past in various subdivisions; that the requested change to the Land Development Code would meet changing market demands; and that the ability to build a larger home on a smaller lot should maintain the higher property values of the area.

Kimberly Muttersfeld, 392 Oak Springs Court, DeBary spoke on behalf of several residents of Springview and stated that the residents supported increased home sizes on smaller lots.

David Rose, 130 Cedar Springs Circle, DeBary, spoke against any increase to home sizes on smaller lots, citing water runoff and water retention as items that would be negatively affected by the increase of home sizes on smaller lots; that there was a lack of maintenance to existing areas in the subdivision; that changes to the subdivision should no be discussed until current issues were resolved; and that he has sent letters to the City Manager and e-mails to members of the City Council regarding those issues.

Bernadette Berger, 162 Cedar Springs Circle, DeBary, supported the increase in home size as well as increased lot coverage ratios and stated that construction of larger homes would add to property values.

Mr. Rasmussen noted that County Staff had recommended approval of the proposed increase. It was noted that staff's recommendation was for a single standard of 45% coverage be applied to lots of 50 feet width or less. Discussion was held on current and future impact of market demands on lot and house sizes and the effect this would have on the development in the City of DeBary; that setbacks would not change if the proposal was adopted; that any density changes to the entire subdivision had not been determined; that application for individual lot variances might be an option; and that impact on overall City development and quality of life issues needed consideration. Mayor Rosamonda entertained a motion to adopt Ordinance No. 01-02 on first reading. No motion was made.

3. Second and Final Reading - Ordinance No. 03-02 – Conforming to the Florida Building Code by Repealing Preempted Provisions, Adopting a Technical Supplement and Describing Wind Speed Lines.

City Attorney Ardaman read Ordinance No. 03-02 by title. Mike Nelson, Chief Plans Examiner for Volusia County was available for questions. Mayor Rosamonda entertained a motion to adopt Ordinance No. 03-02. Motion was made by Council Member Long. Vice Mayor France seconded. The motion carried unanimously.

4. First Reading – Ordinance No. 04-02 – Adopting Juvenile Curfew – Mayor Rosamonda

City Attorney Ardaman read Ordinance No. 04-02 by title. Lieutenant Osowski with the Volusia County Sheriff's Office reviewed the request for a curfew for juveniles under the age of 16; that DeBary deputies responded to 135 suspicious person calls which occurred between the hours of 11:00 P.M. and 5:00 A.M.; that 41 of the 135 suspicious persons were juveniles; that a curfew would be a tool to control repeat offenders and encourage parental control; that he estimated

75% of the 41 juveniles were under 16 years of age; and that it did not appear that there were crimes involved with these 41 suspicious person calls. It was discussed that there were statutes applicable to juveniles committing crimes; that there was a concern for restriction of civil rights; that the fine proposed was the statutory requirement and a community service requirement might be more effective; that the Ordinance could be utilized to prevent juvenile crime and mishap; that the language of the Ordinance might need review for liability issues; and that there were other issues involved with taking juveniles into custody. Mayor Rosamonda entertained a motion to adopt Ordinance No. 04-02. Motion was made by Council Member Coleman. Vice Mayor France seconded for discussion. There was a discussion concerning the number and availability of officers during the hours in question, and that the adoption of this Ordinance could prevent an officer from patrolling and responding to calls if they must be responsible for the custody of a juvenile until the parents take custody of the juvenile. The vote was 2-3 with Vice Mayor France, Council Member Allen, and Council Member Long dissenting.

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

1. Final Plat – DeBary Plantation (DeBary Golf and Country Club) 02-S-FPL-0127, Unit 16B-2.

Palmer Panton, Land Development Manager for Volusia County reviewed the recommendation of approval by the Development Review Committee and recommended conditions and comments and stated that the language on the plat would be clarified regarding the dedication of easements.

Mayor Rosamonda entertained a motion to accept Final Plat 02-S-FPL-0127 DeBary Plantation Unit 16B-2, as provided pursuant to the January 7, 2002 provisions in the Development Review Committee recommendations. Motion was made by Council Member Allen. Vice Mayor France seconded.

Discussion was held that the Homeowners Association would maintain drainage easements; that the plat did not reflect a student drop-off area planned for the back of the DeBary Elementary School to be accessed from DeBary Golf & Country Club; that there was a student drop-off area planned at the intersection of Donald B. Smith Boulevard and Highbanks Road; and that the possibility of the construction of a turn lane for DeBary Elementary School needed to be pursued.

The motion was restated to accept Final Plat 02-S-FPL-0127 DeBary Plantation Unit 16B-2, as provided pursuant to the comments made on the February 1, 2002 letter from Palmer Panton and the conditions stated therein. Motion was made by Council Member Allen. Vice Mayor France seconded. The motion carried 4-1 with Council Member Coleman dissenting.

2. Consideration of Proposal for Additional Code Enforcement Services.

City Manager Diamond reviewed a proposal from Volusia County for an additional 10 hours of proactive code enforcement services per month; that the additional hours would be overtime

hours; that the total cost for the year would be \$7,700, and that the remainder of this year would be at a cost of \$5,113. Mr. Diamond suggested that the City Council might want to prioritize the Code Enforcement violations to be concentrated on during the additional 10 hours of proactive code enforcement services to maximize the effectiveness of the hours.

It was discussed that the 10 hours consisted of 7 hours of field investigation and 3 hours of administrative support. Mayor Rosamonda entertained a motion to approve 10 hours of proactive Code Enforcement services for the balance of the fiscal year. Motion was made by Council Member Allen. Council Member Coleman seconded. The motion carried unanimously.

3. Request for Release/Waiver of Code Enforcement Fine/Lien – Case No. DEB-00-031; Peter Klich; 10 Dogwood Trail.

Peter Klich, 340 McDonald Street, Mount Dora, reviewed correspondence on the issue of his code enforcement violation; that 22 shrubs and 2 oak trees had died since his building was issued a Certificate of Occupancy; that Joe Waller, County Forester, found and filed the violation at the 1 year after CO inspection; when shrubs and trees were not replaced the matter was scheduled for a Code Enforcement hearing; that he was not aware that his appearance was required at the last Code Enforcement meeting; and that he had completed the replacement of the shrubs and trees.

Vice Mayor France made a motion that the fine be reduced to \$150.00 for administrative costs. Council Member Allen seconded. Discussion was held that Mr. Klich delayed compliance; that his building was completed prior to the adoption of the current City Code; and that the prior Code has the same language as to maintaining landscaping after CO as the current Code. The motion carried 4-1 with Council Member Coleman dissenting.

4. Release of Maintenance Surety and Acceptance of Public Improvements – Reserve at DeBary, Phase I & II.

Palmer Panton, Land Development Manager for Volusia County, reviewed the bond and maintenance process for developments and the goal of turning over the improvements to the Homeowners Association and the City; that the County had inspected the public and private areas and had found them acceptable. Discussion was held regarding future maintenance responsibility of the City. City Attorney Ardaman discussed the ability of the City to enforce Homeowner Association responsibility for maintenance; that such enforcement depended upon the language included on the Final Plat. Mr. Panton stated that such language was not included on the plat for the subdivision under discussion. It was discussed that the Final Plat was approved in 1996 which was prior to the changes made in the City's policy concerning acceptance of subdivision improvements and that the City would be responsible for maintenance of the areas dedicated to the public in this subdivision.

Mayor Rosamonda entertained a motion to approve the Final Plat Application Release of Maintenance Surety and Acceptance of Public Improvements for Application 95-S-FPL-0126, Reserve at DeBary, Phase I and Application 96-S-FPL-0222 Reserve at DeBary Phase II. Motion

was made by Vice Mayor France. Council Member Allen seconded. The motion carried 4-1 with Council Member Coleman dissenting.

5. Release of Maintenance Surety and Acceptance of Public Improvements Woodlands at Glen Abbey.

Mayor Rosamonda entertained a motion to approve Final Plat Application Release of Maintenance Surety and Acceptance of Public Improvements for Application 01-S-FPL-0052, The Woodland at Glen Abbey. Motion was made by Council Member Long. Council Member Allen seconded. The motion carried 4-1 with Council Member Coleman dissenting.

**IX. Old Business**

1. Enterprise Interim Interlocal Agreement.

It was discussed that the City of Deltona had made changes at their meeting held January 23, 2002. Mayor Rosamonda entertained a motion to approve the Enterprise Interim Interlocal Agreement as provided. Motion was made by Council Member Long. Council Member Allen seconded.

City Attorney Ardaman opined that the changes made in the agreement made it more enforceable; that language in Paragraph C was unclear as to what was required of the City of DeBary; and that it was probably an unenforceable provision. It was discussed that approval could be given with appropriate language changes noted.

Mayor Rosamonda restated the motion to adopt the Enterprise Interim Interlocal Agreement, substituting on Paragraph Section 1-C, "That during the Interim period the parties shall negotiate an attempt to establish a long-term Interlocal Agreement to implement the plans and program to protect the historic resources and unique character of Enterprise." Motion was made by Council Member Long, Council Member Allen seconded. The motion carried unanimously.

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

Mayor Rosamonda reviewed the benefit comparison chart that included a compilation of the benefits of surrounding cities within a three-County area; that the two issues remaining to be resolved pertained to paid time off and annual holidays; that DeBary currently had the same benefits as Volusia County. Discussion was held to determine whether a paid time off or annual leave/sick-time program should be utilized; that Seminole County appeared to have the prevailing average benefits of all the communities studied; that the paid time off program under consideration would still allow accumulation of paid time off with maximum levels in place for required leave to be taken and accumulated hours paid upon termination of employment; and that Federal FSLA Act required positions to be held for 12 weeks if paid time off was not available.

The possible adoption of a discretionary holiday was discussed; that there were currently nine holidays; that five administrative paid time off days under the Seminole County Plan should not be included in the proposal and whether current employees could be grandfathered in under the current plan, and the plan be applied to new employees only.

It was the consensus of the City Council that the plan currently in use by Seminole County should be utilized, minus administrative leave; that the nine holidays be retained; that it be made effective immediately. Mayor Rosamonda entertained a motion to adopt Resolution No. 01-26, with revisions made in the workshop as well as changing the annual leave to paid time off, similar to Seminole County provisions, including the accrual maximums and eliminating the administrative leave out of that provision and retaining the current nine holidays.

It was discussed that the terms used in Seminole County included a total of 20.2 days from year 0 to the end of the 5th year and increased to 23.4 days for the 6<sup>th</sup> year to the end of the 10<sup>th</sup> year. Motion was made by Council Member Allen. Vice Mayor France seconded. The vote was 3-2 with Mayor Rosamonda and Council Member Coleman dissenting.

## **X. New Business**

### **1. Consideration of the Renewal of Maintenance Contracts for City Parks.**

City Manager Diamond reviewed the proposals for renewals of the two park maintenance contracts; that one would renew at the current rate of \$119,089 and the second could increase by 43% from \$5,000 to \$7,200 if the contractors requested increase be granted; that staff is recommending an renewal amount of \$6,000 for the second parks maintenance contract; that the startup costs to hire personnel in-house vs. the cost of contracting for services, favored the renewal of the current contracts; that the service levels and performance of the contractors had improved over the term of the present contract and were satisfactory.

Mayor Rosamonda entertained a motion to approve the Renewal of Maintenance Contracts for City Parks of \$119,089.07 to Servello and Son and \$6,000 to Hinton Enterprises. It was discussed that no clause had been included in the contracts to limit the increase of the contract amount with Hinton; that a bid process should be entertained; that if the increase to \$6,000 was not accepted, the job should be put out to bid; that using the same contractors might allow a level of continuity of service; that unit cost comparisons could be made; that some cost comparisons were made and the current proposals appeared to be competitive; that future contracts could be made for two-year terms; that the current contracts were for one-year renewal options; that other jurisdiction's park maintenance costs could be compared to the contract costs; and that performance by the current companies was satisfactory.

Mayor Rosamonda entertained a motion to approve the Servello and Son contract for \$119,089.07. Motion was made by Council Member Allen. Vice Mayor France seconded. It was discussed that language should be included that the approval should be for a one-year term, with the intent to enter into a bid process at the end of the year for a two-year contract. The motion

carried 4-1 with Council Member Long dissenting. It was discussed that the contract with Hinton should be re-bid if the renewal offer of \$6,000 is not accepted.

2. Consideration of Landscape Design Services for Additional Medians on Highway 17-92 from Dirksen Drive to the St. Johns River Bridge and from Highbanks Road to Saxon Boulevard.

City Manager Diamond reviewed the contract for Landscape Design Services for Highway 17-92 medians and stated that the existing contract be amended to include additional medians for north and south Highway 17-92 at a total cost of \$10,100.00 in order to apply for and obtain FDOT permit approval. It was discussed that the workshop held by the City Council had determined that the medians were to be permitted.

Mayor Rosamonda entertained a motion to approve the \$10,100.00 for the Landscape Design for the additional medians on 17-92. Motion was made by Council Member Long. Council Member Allen seconded. The motion carried unanimously.

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

1. Board/Committee Reports
2. Board/Committee Appointments

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

Appointments: Carol Yules

Mayor Rosamonda entertained a motion to approve the appointment of Carol Yules to replace Jackie Van Nuys. Motion was made by Council Member Coleman. Council Member Allen seconded. The motion carried unanimously.

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

Appointments: Antoinette Beiser

Mayor Rosamonda entertained a motion to appoint Antoinette Beiser. Motion was made by Vice Mayor France. Council Member Long seconded. The motion carried unanimously.

C. Committee: 10 – Year Anniversary Celebration France - 1  
Term Expires: 30 Days After Celebration Coleman - 2  
Incumbent: None At-Large - 1  
Length of Term: One (1) Year

Appointments: Robert P. Headrick  
Peg McAllister

It was discussed whether a City staff member or a Council Member should participate in the 10-Year Anniversary Celebration Committee; that there might be someone from the County that would be willing to participate. Robert P. Headrick was appointed to the 10-Year Anniversary Celebration Committee by Council Member Coleman. Peg McAllister was appointed to the 10-Year Anniversary Celebration Committee as an At-Large appointment.

D. Board: Code Enforcement Board Allen  
Term Expires: February 6, 2005  
Incumbent(s): Judy Deviney  
Willing to Serve Another Term.  
Length of Term: Three (3) Year

Mrs. Judy Deviney was reappointed to the Code Enforcement Board.

### 3. Member Reports/Communications

#### A. Mayor and Council Members

Discussion was held regarding gateway corridor standards and the consideration of franchise and impact fees. It was discussed that there was signage posted on Highway 17-92 in violation of the Land Development Code; that the signs were being confiscated monthly by the Code Enforcement Officer; that the civil citation process was not yet in place to cite the persons involved; and that there were other signs posted in violation throughout the City.

City Manager Diamond was asked about gateway corridor standards and he stated that he had requested that Florida Planning and Zoning Association set up a meeting to begin working on a draft of the standards. Council Member Coleman reported that there was work being done on berms around the retention area on Enterprise and that the work was on schedule.

Council Member Allen spoke in favor of reviewing budgeted land bank allocations to purchase property for future City projects; that there were complaints regarding the sequence of the turn light at DeBary Golf & Country Club and that FDOT had not responded.

Vice Mayor France noted that he attended Legislative Day in Tallahassee.

Council Member Coleman discussed a suggested proposal presented for review to the President of the Citizens for DeBary; that he wanted to make the City Council aware of the proposal. It was discussed that policy had been set regarding services to be provided to non-profit

organizations; that programs under the City Parks and Recreation Department might utilize volunteers for support of events; that DeLand was investigating a mechanism such as an endowment by corporations or private citizens for non-profit organizations; that a non-profit administer charitable contributions within the City so that funding would be awarded without the necessity of government involvement.

B. City Attorney

City Attorney Ardaman reviewed pending litigation status.

C. City Manager

## **XII. Adjournment**

Meeting was adjourned at 10:45 P.M.

**Approved March 6, 2002  
City of DeBary  
City Council**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Yaskanich, City Clerk