

City of DeBary
REGULAR CITY COUNCIL MEETING

Wednesday
October 2, 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

II. Roll Call

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

Absent: Vice Mayor Greg France

Others Present: City Manager Richard Diamond, City Attorney Kurt Ardaman, and City Finance Administrator James Seelbinder

Mayor Rosamonda introduced visiting dignitaries; Council Member-Elect Gunter, Lita Handy-Peters of the West Volusia Hospital Authority and Deltona City Commissioner Diane Obremski.

III. Public Participation For Any Issues Not On the Agenda

IV. Approval of Minutes

1. Regular City Council Meeting held September 4, 2002.

Motion to accept was made by Council Member Long. Council Member Coleman seconded. Motion passed unanimously.

V. Presentations

Mayor Rosamonda congratulated incoming Council Member Chris Carson.

1. Proclamation – VFW – “Buddy Poppy Days”.

Mayor Rosamonda read a proclamation declaring November 8th and 9th as “Buddy Poppy Days” in the City of DeBary.

VI. Public Hearing

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 – Empire Cattle Company - 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. For the record, Council Member Long, Mayor Rosamonda and Council Member Allen noted ex-parte communication with interested parties. County Planner Scott Ashley reviewed revisions to the PUD agreement recommended by Staff. It was discussed that stormwater retention areas would be included in the calculations of the total residential density area and there were no specific numbers for net density calculations; that the density determination could be changed once the retention area was created; and that this application was reviewed under the current Land Development Code. Mark Watts of Cobb, Cole and Bell, representing Empire Cattle, reviewed Empire Cattle's response to County staff recommendations and changes to the development agreement; that a traffic impact analysis was in the process of being updated; that residential net density calculation would be consistent with Ordinances; that allowable PUD land uses had been updated with input from Council Members; that the exempt landfill land use needed to remain as an allowable use as necessary for construction and development purposes; and that tree preservation, open area requirements, underground utility distribution lines and mass transit requirements would be met during the development review process.

There was additional discussion of permitted land uses; that architectural styles would follow Gateway Standards; that minimum architectural standards or a provision for City Council approval of architecture designs could be included in the development agreement. Steve Costa, Empire Cattle, noted that without professional architectural input, a provision for Council approval might adversely affect the marketability of the property. It was further discussed that completion of Gateway Corridor Standards was anticipated but not complete; that language be added that until such time as architectural standards are adopted through Gateway Standards, Council approval would be required. Scott Ashley defined the classifications for automobile service stations. It was discussed that additional permitted uses be stricken including repair facilities for service stations, mixed-use community residential homes, use or storage of chemicals by laundry and dry cleaning establishments and that other permitted uses be changed to special exceptions to include boarding houses and nightclubs. Mayor Rosamonda entertained a motion to approve Ordinance No. 10-01 on second and final reading including the proposed changes, Exhibit C as revised, to include Staff recommendations. It was noted that under staff recommendations the language designating "Tract C-7 for office use only" was deleted, due to limitations that were added, and that County Staff concurred. Motion was made by Council Member Long. Council Member Coleman seconded. City Manager Diamond was asked for his opinion and he stated that he agreed with the recommended changes. The motion carried unanimously.

Mayor Rosamonda proposed discussion of the Daytona Beach Community College Four Townes Building at this time for convenience of the members of the public waiting to speak; that the building might be suitable for some City functions; that parking facilities were limited for

recreational utilization of the adjacent retention area; that proposed long-term leasing by the DeBary Art League of a portion of the building might allow application for ECHO and other grant funds for the City; that the building would otherwise be sold at auction; that public feedback was invited; and that City Manager Diamond and City Attorney Ardaman would be meeting with Ken Sharples, President of DBCC on October 9, 2002 and input received would assist them in discussion of price and terms. It was discussed that there was community support for obtaining the building to use for civic purposes with grant funds and other funding opportunities available to minimize costs; that enhancement of the retention area at Highbanks Road and Enterprise Road for public uses was needed; that a purchase agreement for the DBCC building could be contingent upon award of ECHO funds; that the transmission tower would not be included in the property purchase; that other options for uses should be explored; that the property was appraised at \$1.2 million; that no determination for purchase of the building had been made by the Council; that the building could provide multiple uses; and that all aspects of price, financing, grant funds and leasing options should be reviewed.

Sandra Wilson, 37 Keeble Avenue, and Gene Self, 400 Caddie Drive, spoke in favor of the DeBary Art League utilizing the DBCC building as a benefit to residents of the City; that they were obtaining information to apply for ECHO and other cultural grants, as well as state grant funds; that a grant writer would assist in the preparation of the applications; and that there would be advantages to families and businesses that support the Art League.

Morgan Welch, 400 Hinsdale Drive, age 9, and Sharon Sheibenberger, 63 Magnolia Drive, age 8, spoke of their attendance at Summer Art Camp and their wish for an Art League building in DeBary and stated that they were collecting cans for recycling in an effort to support the DeBary Art League

Sally Sheibenberger, 63 Magnolia Drive stated her support for a facility for the DeBary Art League and the positive impact that cultural activities provide for children.

Mayor Rosamonda requested, without objection of the City Council, that City Manager Diamond and City Attorney Ardaman proceed to meet with Mr. Sharples and obtain information pertinent to the purchase of the DBCC building. It was discussed that a workshop should be held to present the information obtained.

2. Second and Final Reading – Ordinance No. 15-02 – Granting a Non-Exclusive Franchise For Use of Rights-of-Way for Distribution and Sale of Gas to Florida Public Utilities.

City Attorney Ardaman read Ordinance No. 15-02 by title. Don Kitner, 111 Amberglow Court, Director of Florida Public Utilities, DeBary, stated that there was an updated agreement. Council Member Long disclosed ex-parte communication with interested parties. It was discussed that a franchise fee percentage needed to be set and that the adoption of a franchise fee would result in additional pass through costs to the consumers. Mayor Rosamonda entertained a motion to approve Ordinance No. 15-02 with the amendment provided by City Attorney Ardaman and setting the initial percentage rate at zero. Motion was made by Council Member Allen. Council Member Long seconded. The motion carried 3-1 with Council Member Coleman dissenting.

3. Second and Final Reading - Ordinance No. 16-02 – Expanding the Springview Streetlighting District to Include Units 6 and 7.

City Attorney Ardaman read Ordinance No. 16-02 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 16-02 by title. Motion was made by Council Member Long. Council Member Allen seconded. It was discussed that administrative costs and contingency fees were applied to fund balances for the district. The motion carried unanimously.

4. Second and Final Reading - Ordinance No. 18-02 – Vacating a Portion of a Northwesterly 7.5 Foot Wide Platted Utility Easement of Lot 31, DeBary Plantation Unit 10.

City Attorney Ardaman read Ordinance No. 18-02 by title. It was discussed that the updated legal description vacated the encroachment only and the balance of the easement remained. Mayor Rosamonda entertained a motion to approve Ordinance No. 18-02. Motion was made by Council Member Long. Council Member Allen seconded. The motion carried unanimously.

5. First Reading - Ordinance No. 10-02 – Hugh West Testamentary Trust - Rezoning 77.3 Acres Located on the Southeast Corner of Highbanks Road and Ft. Florida Road near the Highbanks Marina From A-2 (Rural Agriculture) to RPUD (Residential Planned Unit Development).

Mark Watts of Cobb & Cole, representing the developer, discussed the developer's request for extension of this hearing and that they wished to present a revised plan to area residents that proposed rural residential zoning for the residential area with a minimum lot size of one acre. It was discussed that the public hearing should be opened and the Ordinance continued to a time certain. City Attorney Ardaman read Ordinance No. 10-02 by title. If continued, this item would be heard November 6, 2002 at 7:00 PM. Mayor Rosamonda noted for the record that prior comments by Mr. Watts were part of the public hearing. Mr. Watts stated that the proposed plan had been revised after meeting with area residents and that County review and amendments to the developer agreement were not complete. Council Member Allen disclosed ex-parte communication with interested parties. It was noted that the proposed one-acre parcels supported the economic needs of the developer for infrastructure improvements. Council Member Long disclosed ex-parte communication with interested parties. Mayor Rosamonda disclosed ex-parte communication with interested parties. It was noted that upon receipt of a revised site plan the homeowners in the area would be met with individually. Council Member Coleman disclosed ex-parte communication with interested parties.

Ray Rutherford, 437 Fox Run, stated opposition to Ordinance No. 10-02; that the residential lot sizes were not acceptable; that a continuance would be acceptable if Mr. Costa would state for the record that the church area and the residential area would be considered separately; that the residential property be rural residential zoning; and that a continuance be denied if those terms were not met.

Jay Erndl, 74 River Bluff Trail, stated his agreement with many of Mr. Rutherford's comments and that he would prefer to see presentation of a proposal for one-acre lots.

Keith Roark, 111 Traders Cove Boulevard stated that he agreed with previous comments; that the residential density and zoning was not acceptable; that he would like to review home sizes as well as lot sizes and that he was in favor of responsible development.

Mayor Rosamonda entertained a motion to table Ordinance No. 10-02 to November 6, 2002 at 7 PM and that a revised proposal be presented which takes citizen feedback into account. It was discussed that a 60-day extension had already been allowed; that the developer had not been able to meet with residents until September 11, 2002; that no further continuance would be asked; that a final plan would be presented; that the Church parcel was being separated from the residential area; and that rural residential zoning in the residential area was being proposed as a compromise to meet the needs of the developer and the residents. There was further discussion that it did not appear that a consensus had been reached among residents as to agreement with one-acre lot sizes; that Mr. Watts confirmed that church and residential areas were to be zoned separately and would be under separate plans; that it was unclear whether separate public hearings were needed; and that County Staff needed to be consulted. Council Member Long motioned to continue the hearing to a time certain. Mayor Rosamonda seconded the motion for additional discussion. There was a discussion that the process was time consuming and that Mr. Watts anticipated finalization of the revised proposal by year-end. The vote upon the motion to continue the hearing to a time certain was 2-2 with Council Member Allen and Council Member Coleman dissenting. Mayor Rosamonda entertained a motion to deny Ordinance No. 10-02 at first reading. It was discussed that if the Ordinance were denied, the six-month restriction against reapplication could be waived and that a re-hearing could be held if a Council Member that voted against the continuance requested it. Mr. Watts asked the Council to reconsider the continuance. Motion was made by Council Member Allen. Council Member Coleman seconded. The motion carried 3-1 with Mayor Rosamonda dissenting.

6. First Reading – Ordinance No. 17-02 – Providing for Placement of Utilities Underground for New, Reconstructed, Expanded or Relocated Utilities – Vice Mayor France.

City Attorney Ardaman read Ordinance No. 17-02 by title. City Manager Diamond reviewed the modification to the Ordinance for both on-site and off-site utilities for new development. Mayor Rosamonda closed the Council's public hearing and opened the public hearing for the Land Planning Agency without objection.

David Rasmussen, 107 Forest Point Lane, Longwood questioned whether the Ordinance applied to all zoning and to both residential and commercial development. City Manager Diamond confirmed and clarified that modification of the Ordinance includes utility adjustments to existing developments and off-site supply to new developments. Mr. Rasmussen discussed that in industrial developments, power needs were difficult to project and changes to underground lines were cost prohibitive and that some exemption for industrial areas be considered. It was discussed that a continuance was needed. Mayor Rosamonda entertained a motion as the Land Planning Agency to recommend to the City Council to table Ordinance No. 17-02 to November 6, 2002 at 7:00 PM. It was further discussed that the impact of this Ordinance to existing developments needed review. Motion was made by Council Member Coleman. Council Member Long seconded. The motion carried unanimously. The Land Planning Agency hearing was

closed and City Council's public hearing was reopened. Mayor Rosamonda entertained a motion to accept the recommendation of the Land Planning Agency to continue Ordinance No. 17-02 to November 6, 2002 at 7:00 PM. Motion was made by Council Member Coleman. Council Member Allen seconded. The motion carried unanimously.

7. First Reading – Ordinance No. 19-02 - Tree Preservation.

City Attorney Ardaman read Ordinance No. 19-02 by title. Mayor Rosamonda closed the City Council's public hearing and opened the Land Planning Agency's public hearing without objection. Mayor Rosamonda entertained a motion to recommend approval of Ordinance No. 19-02 to the City Council. Motion was made by Council Member Long. Council Member Coleman seconded. It was discussed that there were exemptions allowed in the Code; that some agricultural exemptions should be changed; that provisions to allow for utility line trimming were allowed; that a provision for properties with ad-valorem tax agricultural exemptions be allowed and that private residential properties should be exempted. There was further discussion of appropriate changes; that all agricultural exemptions be removed; and that permits could be obtained for appropriate harvesting. Mayor Rosamonda entertained a motion to recommend to the City Council approval of Ordinance No. 19-02 with pending revisions for second and final reading. It was discussed that City Manager Diamond would consult with County Forrester Joe Waller with Volusia County Environmental Management to review recommend changes. Motion was made by Council Member Long. Council Member Coleman seconded. The Land Planning Agency's hearing was closed and City Council's public hearing was reopened. Mayor Rosamonda entertained a motion to approve Ordinance No. 19-02. Motion was made by Council Member Long. Council Member Allen seconded. The motion carried unanimously.

8. First Reading – Ordinance No. 20-02 – Expansion of Saxon Woods Streetlighting District to Include Unit 2A.

City Attorney Ardaman read Ordinance No. 20-02 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 20-02. Motion was made by Council Member Long. Council Member Coleman seconded. The motion carried unanimously.

9. Resolution No. 02-19 – Abandoning/Vacating a Portion Volusia Park Plat.

City Attorney Ardaman read Resolution No. 02-19 by title. City Manager Diamond reviewed the request to vacate and the configuration of rights-of-way on South Shell Road. It was discussed that no public purpose was served by the recorded plat. Motion to approve was made by Council Member Coleman. Council Member Allen seconded. Council Member Long disclosed ex-parte communication with interested parties. The motion carried unanimously.

10. Resolution No. 02-28 - Authorizing Recording of Maintenance Map for a Portion of S. Shell Road.

City Attorney Ardaman read Resolution No. 02-28 by title. City Manager Diamond reviewed the need for the recording of the maintenance map. It was discussed that there appeared to be discrepancies in the maintenance map; that the County confirmed that the deeds were recorded as

plotted; and that property owners' surveys did not appear to coincide with the maintenance map boundaries. Mayor Rosamonda tabled Resolution No. 02-28, without objection, until clarification of the maps was obtained.

VII. Consent Agenda

*Agenda Items marked with * are considered routine matters or have been previously discussed by the City Council. All items will be considered by one motion unless removed from the Consent Agenda by a member of the City Council.*

*1 None.

VIII. Growth Management and Development Review

1. None.

IX. Old Business

1. Lake Charles Basin and Adelaide Street Drainage Studies.

City Manager Diamond reviewed the progress of the engineering study; that a total of \$55,252 was required for Phase 1 of the two studies; that information would be provided by the engineering study to determine solutions; that there were funds available in the new budget; that the original stormwater engineering for Adelaide Street needed to be reviewed; that the entire drainage basin for Lake Charles would be included; that the formal bid process would delay the resolution of these problems; and that costs for additional phases could not be determined until the first phase was complete. Mayor Rosamonda entertained a motion to approve \$55,253 dollars for Phase 1 for Adelaide Street and Lake Charles Basin and authorize the City Manager to seek out the original contractor and engineer for Adelaide Street and request assistance with the solution or repair. Motion was made by Council Member Allen. Council Member Long seconded. There was further discussion of the requirement for a formal bid process; that there were pressing issues; and that if the engineering firm was found to be the stormwater engineer of record of the original development, a new firm would be selected. The motion carried unanimously.

2. Setting Future Workshop/Special Meeting Date(s).

It was discussed that a special meeting regarding the DBCC building purchase and a workshop with Volusia County Manager Coto be held on October 15, 2002 and that a workshop regarding Orlandia Heights and the City Manager's Goals and Objectives be held on October 22, 2002.

3. Discussion of Daytona Beach Community College Four Towns Building – Mayor Rosamonda.

This item was previously heard.

4. Discussion of New High School Siting – Council Member Long.

Discussion was held that a site outside of DeBary was being reviewed and considered for a High School site; that Mayor Rosamonda was working on action plans including application for State TOPS grants and was meeting with parties involved with the Saxon Boulevard extension; and that an escrow fund might be set up to facilitate and expedite the extension of Saxon Boulevard. Council Member Long requested that a letter be sent to appropriate persons, with the consensus of the Council, stating that the City was prepared to take actions necessary to locate the High School in DeBary and that stronger negotiation tactics be pursued with Florida Power. It was the consensus of the City Council that Mayor Rosamonda draft a letter of intent.

5. Discussion of City Manager's Performance Evaluation.

It was discussed that the matter be reviewed at the Workshop on October 22, 2002 and that Council's feedback would be consolidated prior to that date with an overall point value assigned to the consolidated evaluations.

X. New Business

1. Approval of Joint Participation Agreement Between the City of DeBary and Florida Department of Transportation for Landscaping Improvements on S. Highway 17-92.

Mayor Rosamonda entertained a motion to approve the Joint Participation Agreement Between the City of DeBary and Florida Department of Transportation and to request that DOT earmark \$20,000 of the \$116,000 for irrigation installation. Motion was made by Council Member Long. Mayor Rosamonda seconded for discussion. City Manager Diamond reviewed his discussion with the County regarding the use of tree mitigation funds for median landscaping and he was informed that the project would be eligible. The motion carried unanimously.

2. Discussion of Turner Property.

City Manager Diamond noted that Mr. Turner had indicated an interest in selling his property behind City Hall and that an appraisal was provided. There was discussion that Mr. Diamond pursue negotiations and that the appraised value would be the basis of any offer to be brought before the City Council for approval.

3. Lease of Holiday Decorations.

City Manager Diamond reviewed the proposal; that the price included delivery, installation and removal; and that the cost exceeded the budgeted amount. Mayor Rosamonda entertained a motion to approve \$8,100 dollars to enter into a lease agreement with Clark Sales Display and request City Manager Diamond to attempt to negotiate the best price. Motion was made by Council Member Long. Council Member Coleman seconded. It was also discussed that outlets should be installed on the poles and that Florida Power could be contacted to provide outlets. The motion carried unanimously.

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

1. Board Committee Reports

Council Member Coleman reported that all 52 County wells were at capacity; that water conservation needed monitoring; and that the Chamber of Commerce Leadership Program had 23 members.

2. Board/Committee Appointments

- A. Board: Code Enforcement Board Alternate Coleman
Term Expires: September 4, 2005
Incumbent: None

3. Member Reports/Communications

- A. Mayor and Council Members
B. City Attorney

City Attorney Ardaman reviewed recent litigation filed against the City.

C. City Manager

Mayor Rosamonda reviewed a complaint regarding 214 DeBary Avenue; that the structure was scheduled to be moved to DeBary Hall property; that the property was being neglected and vandalized; and that City Manager Diamond would review the status of the purchase by the County and the City liens in place. Property on West Constance was also discussed and that the property was scheduled to be demolished within 5 days.

Council Member Coleman asked about bids for transplanting I-4 landscaping on East Highbanks Road. He was informed that the bid would come before the Council. Council Member Long asked that a wood fence on the west side of Highbanks be checked for compliance.

XII. Adjournment.

**APPROVED November 6, 2002
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Yaskanich, City Clerk