

City of DeBary
REGULAR CITY COUNCIL MEETING

Wednesday
March 5, 2003

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 George Coleman, Council Member Danny Allen, Council Member Christopher Carson, and Council Member Richard Gunter.

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

Mayor Rosamonda introduced distinguished guests: County Council Member Bill Long, Deltona City Council Member Obremski, and Former DeBary Vice Mayor Greg France.

III. Public Participation For Any Issues Not On the Agenda

Pamela Knudsen, 228 Hazeltine Drive, stated she had evidence to present to the Sheriff's Office regarding noise and harassment issues during residential construction adjacent to her home; that excessive permits were issued; and that management in DeBary Golf & Country Club had not been cooperative.

Mayor Rosamonda noted that he had received information from the City Manager and management at DeBary Golf & Country Club and that fines had been assessed to the contractors. City Attorney Ardaman reviewed the exceptions to the Noise Abatement Code for building construction; that there were noise level limits included in Table One; that the Table would be reviewed for appropriate language by the City Manager to address enforcement issues; that loud radios and foul language were not exceptions to the Code in any event; and that Ms. Knudsen would provide a list of builders working in that area.

Fred Lotz, 126 Sher Lane, congratulated Captain Alan Osowski of the Sheriff's Department for the good job that he and his department were doing; that he was concerned with access to his neighborhood by emergency vehicles during train crossings; that new development in the area would cause additional congestion; and that an additional fire station should be constructed in the area with developer cooperation.

Mayor Rosamonda noted he had investigated the possibility of a dedication of land for a new fire station and that the developer he had spoken with was not proceeding at this time.

County Council Member Bill Long, District Five, reviewed recent County Council activities including a recent trip to Washington D.C. to lobby house representatives and senators for federal funding for bridge projects; that the funding was necessary to continue other road construction in Volusia County; that projects concerning East Volusia County would have impact on West Volusia County projects as well; that work in Ponce Inlet was needed to maintain Coast Guard use; that ECHO Grants were being pursued for several projects in West and Southwest Volusia; that he also extended congratulations to Captain Osowski; that he wished to assure residents that additional security was added to the water plant in DeBary and the County's Reverse 911 vendor had been replaced to ensure service in the future; that the ASR Water Storage Technology was in use by Cocoa Water Utilities, that a tour was being arranged for the County Council, and that he wished to extend an invitation to the DeBary City Council Members to attend; that Greg France had accepted his appointment to the Beach Advisory Board; that former DeBary Mayor Don Smith had accepted his appointment to the ECHO Board; that DeBary resident Karen Bergonet had accepted an appointment to the Children and Family Services Advisory Board; and that the involvement of DeBary residents with the County was welcomed.

Mr. Long was thanked for updating the City Council on County activities.

IV. Approval of Minutes

1. Special City Council Meeting held November 26, 2002.
2. Special City Council Meeting held January 15, 2003.
3. Regular City Council Meeting held February 5, 2003.

The minutes for February 5, 2003 were removed from the agenda. Mayor Rosamonda entertained a motion to approve the Special City Council minutes of November 26, 2002 and January 15, 2003. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

V. Presentations

1. None.

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. Ordinance No. 17-02 – Second and Final Reading - Providing for Placement of Utilities Underground for New, Reconstructed, Expanded or Relocated Utilities-Continuation.

City Attorney Ardaman noted that Ordinance No. 17-02 had been revised and would be treated as a First Reading and title read as modified. City Attorney Ardaman read Ordinance No. 17-02 by title and read specific changes and noted specific requirements. It was discussed that the burden of providing underground utilities was on the developer and that the City Council could waive requirements when a good-faith effort to comply with the intent of the Ordinance was demonstrated by a developer. Correspondence received from utility providers was noted. Council Member Allen disclosed ex-parte communication with interested parties. Sophia O'Keefe, representing Progress Energy, requested more detail in the Ordinance, specifically language referencing Public Service Commission Code. It was discussed whether to table the Ordinance to review additional language in light of potential conflicts with the Public Service Commission Code. City Attorney Ardaman noted that the language added was specific to efforts required of developers; that the ability to waive requirements was included; and that the City Council could adopt specific language if desired. It was discussed that similar local ordinances could be used to model language; that if consistency with federal administrative requirements was desired, revisions could be made; and that the Land Development Code for DeBary might not be consistent with the Public Service Commission Code. Mayor Rosamonda entertained a motion to table Ordinance No. 17-02 until April 2, 2003 at 7:00 PM. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried 4-1 with Vice Mayor Coleman dissenting.

2. Ordinance No. 04-03 – First Reading – Administratively Changing the Zoning Classification of Real Property – Zoning/Comprehensive Plan Conflicts Program – Phase II.

Mayor Rosamonda closed the Public Hearing without objection and opened the Land Planning Agency hearing. City Attorney Ardaman read Ordinance No. 04-03 by title. City Manager Diamond reviewed objectives of Phase II to resolve conflicts between the Zoning Map and Future Land Use Map of the Comprehensive Plan and noted a correction.

Doris Kirby, 13 Cunningham Road, requested clarification of the proposed change. City Manager Diamond noted that the changes had required several steps and that the area would be zoned Rural Residential, which is consistent with 1-acre parcels. Ms Kirby also asked for examples of businesses allowed under General Commercial Zoning. Mr. Diamond noted that retail, service and restaurant uses were allowed.

Patricia Duncan, 104 Fort Florida Road, questioned the purpose of a change on West Highbanks from Light Industrial to Heavy Commercial. It was explained that the change was to correct a specific lot already in use to be consistent with the Comprehensive Plan. Ms. Duncan asked for clarification on the location of Springview Subdivision in Case D-03-009. City Manager Diamond noted the proposed R-4 Zoning would conform to adjacent Residential Zoning. It was

discussed that the zoning be changed to R-1 rather than R-4. There was discussion of Case D-03-008; that the change to R-1 would be consistent with current development of larger lots.

Mayor Rosamonda entertained a motion to adopt Ordinance No. 04-03 with adjustment to Case D-03-009 to R-1 instead of R-4 Zoning. Motion was made by Council Member Gunter. Vice Mayor Coleman seconded. The motion carried unanimously. Mayor Rosamonda closed the Land Planning Agency and reopened Public Hearings without objection. Mayor Rosamonda entertained a motion to approve Ordinance No. 04-03 with changes recommended to Case D-03-009. Motion was made by Council Member Allen. Vice Mayor Coleman seconded. The motion carried unanimously.

3. Ordinance No. 05-03 – Amending the Terms of the Economic Development Advisory Committee.

City Attorney Ardaman read Ordinance No. 05-03 by title. Mayor Rosamonda discussed the reason for proposed changes to the term requirements. It was discussed that the Ordinance in effect requires yearly appointments by the City Council and that there might be issues with the number of continuous terms served by some seated members.

Carol Lawrence, 253 Hazeltine Drive, Chair of the Economic Development Advisory Committee, noted that she had requested the copy of the original Ordinance and found that several terms were expiring for several members; that the proposed elimination of term limits would still require yearly appointments by City Council; and that provisions to replace Committee Members due to excessive absences were still in place. It was discussed that term limits allowed new membership to promote differing points of view and ideas; that yearly appointments by the City Council would require review and allow for membership changes as needed; that the revised Ordinance allowed options for appointment of Alternates either by Council or Committee; that the Sunset Clause be eliminated; that actions of the Committee taken until of the effective date of this Ordinance could be ratified by the Council, and that the Committee should continue meeting until adoption of Ordinance No. 05-03. Motion to approve Ordinance No. 05-03 and authorize the EDAC to continue operation as authorized by the City Council was made by Council Member Gunter. Council Member Carson seconded. It was noted that the Sunset provision would be removed from the current Ordinance. The motion carried unanimously.

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. Final Site Plan Application – Adams Building Materials – File No. 03-F-FSP-0122.
- *2. Exclusive Agreement with Coca-Cola to Provide Six Baseball Scoreboards.

- *3 Interlocal School Facility Planning Agreement between the City of DeBary and Volusia County School Board.

Council Member Carson requested that Item 2 be removed from the Consent Agenda. It was discussed that the agreement with Coca-Cola was conditional upon the exclusive sale of Coca Cola products at the parks for the next five years; that maintenance of the scoreboards would be provided by the City; that competitive bids should be sought; and that product pricing was not specific or fixed for Year Two through Five of the agreement. City Manager Diamond noted that discussions had been held with other vendors; that Coca-Cola had offered more for Scoreboards and cabling; that provisions could be added to the contract; that the Scoreboards could be provided quickly; that installation would be paid by the City; that the contract did not require return of the Scoreboards at the end of the contract term; that approval could be contingent upon a cap on pricing; that Little League had approved the contract; that definition of facilities should be included; that vending machines were included for Gateway Park; and that a price cap should be based on the Consumer Price Index. City Attorney Ardaman noted that definition of the account holder, specific dates for delivery, and provisions for termination should be included. It was discussed that the matter, if ready, be discussed at a Special Meeting before the Executive Session scheduled for March 12, 2003 and that responsibility of maintenance issues should be defined. Mayor Rosamonda noted the specific changes as discussed. There was further discussion of using remotes controls for the scoreboards rather than cabling.

City Attorney Ardaman noted that a provision to terminate the existing Interlocal School Facility Planning Agreement be included. Mayor Rosamonda entertained a motion to approve the Consent Agenda, provided there was an understanding that the Interlocal School Facility Planning Agreement replaces the existing agreement between the School Board and the Cities. Motion was made by Vice Mayor Coleman. Council Member Allen seconded. The motion carried unanimously.

VIII. Growth Management and Development Review

- 1. None.

IX. Old Business

- 1. None.

X. New Business

- 1. Senior/Low Income Homestead Exemption –Mayor Rosamonda.

Council Member Carson, Council Member Allen, and Council Member Gunter disclosed ex-parte communication with interested parties. It was noted that if the Council desires, an Ordinance would need to be adopted prior to December to take effect for tax year 2003. Mayor

Rosamonda reviewed the addition to the Florida Statutes of Ad Valorem Tax Exemptions for Senior Citizens; that Volusia County had approved the exemption and that specific exemption amounts had been approved in other cities. It was noted that the matter had come before the City Council previously and was declined; that there were concerns regarding reducing the property tax base; and that the property tax rate in DeBary was one of the lowest in the County.

Daniel Jarczynski, 8 Maplehurst Avenue, stated he felt entitled to the exemption; that he did not feel there would be a serious financial impact to the City; that many senior citizens had low fixed incomes; and that the tax reduction would allow them greater discretionary spending. It was discussed that DeBary was one of the few cities without the exemption in place.

Former Vice Mayor Greg France, 168 Community Drive, reviewed his attendance at the previous Council vote on this issue; that his experience with public administration and legislative issues showed that the law was not equitable; that the cost to administer the tax exemption would cause greater costs in other areas; that it was not a balanced law; and that a reduction in the tax base due to additional exemptions might result in a higher Ad Valorem rate for other property owners with a greater overall cost than an exemption savings would provide. There was discussion that there would be income limits in place to be able to qualify for any exemption and that there were non-senior citizens with similar income restrictions that would not be entitled to similar exemptions.

County Council Member Bill Long, 145 S. Highway 17-92, stated there were less than 400 residents in the community that would qualify for the exemption; that if a resident was not paying City taxes due to the exemption they would still be responsible for other taxes; that the growth rate in the community would not be negatively impacted by the exemption; and that he felt it was the right thing to do.

There was discussion of health care issues in the County and that County Council Member Long was involved in researching methods to alleviate Emergency Room congestion and provide options for those in need in Volusia County.

Council Member Gunter moved that the City Council direct Staff to bring back an ordinance to allow the City Council of the City of DeBary to grant an additional \$25,000 exemption to the taxable value of residential property where the owner is 65 years of age or older and the household income does not exceed \$20,000 as adjusted annually by the Consumer Price Index beginning in 2001, as provided for in the amended Chapter 196 of the Florida Statutes. Council Member Carson seconded. The motion carried 3-2 with Vice Mayor Coleman and Council Member Allen dissenting. It was noted that the ordinance would be presented for first reading on April 2, 2003 and, if passed on first reading, second reading would be on May 7, 2003; and that if passed the exemption would take effect in November 2004 for tax year 2003.

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

1. Board Committee Reports

2. Board/Committee Appointments

- A. Board: Citizens Advisory Committee – Volusia County Metropolitan Planning Organization.

Mayor Rosamonda entertained a motion to appoint Carlos Sierra to the Citizens Advisory Board for the MPO. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

- B. Board: Senior Program Advisory Committee
Alternate

Mayor Rosamonda entertained a motion to approve Kenneth Holdman to the Senior Program Advisory Committee. Motion was made by Vice Mayor Coleman. Council Member Allen seconded. The motion carried unanimously.

- C. Board: Teen Program Advisory Committee
Teen

It was discussed that there had not been a quorum at the last meeting.

- D. Board: Volusia Council of Government

Mayor Rosamonda entertained a motion to appoint Vice Mayor George Coleman to the Board of the Volusia Council of Government. Motion was made by Vice Mayor Coleman. Council Member Gunter seconded. The motion carried unanimously.

- E. Board: Public Safety Advisory Committee Gunter
Term Expires: February 7, 2002
Incumbent: MarLee Grein (Willing To Serve)
Length of Term: Two Years

Council Member Gunter moved to appoint MarLee Grein to the Public Safety Advisory Committee. Council Member Carson seconded. The motion carried unanimously.

- F. 10 Year Anniversary Committee

It was noted that Rosemary Obenland was no longer a Member and that a replacement was needed. That the acting Chair had requested that two alternate members be appointed to the Committee. Mayor Rosamonda entertained a motion to appoint Ms. Freeman as Council Member Allen's appointment, Ms. Scott as Council Member Carson's appointment, and Ms. Evans as alternate to the 10 Year Anniversary Committee. Motion was made by Council Member Gunter. Council Member Allen seconded. There was discussion of proposed events and progress to date. The motion carried unanimously.

G. Historic Preservation Committee

It was noted that the Board had not been active for some time. It was discussed that the Board should be reactivated and given Goals and Objectives; that sponsorships and grants could be pursued to create a museum and preserve DeBary heritage; that reappointments could be added to the April City Council Agenda; that a Committee was needed to obtain grant funding for a museum and/or records research; that grant funding had been applied for in the past for a Phase I Archaeological study and preservation of the Sears House; that the Phase I Archaeological study had been awarded a grant and that a strong mission statement from the Council for the Committee would be needed.

3. Member Reports/Communications

A. Mayor and Council Members

Council Member Gunter commented on resident queries regarding paving of Fraser Road and had met with City Manager Diamond on the matter.

Council Member Carson stated that he had spoken with a few representatives from other cities and has information concerning scoreboards, which he would present at the Workshop.

Vice Mayor Coleman noted that he was accepted at the Volusia County Citizens Academy and reviewed various County Services provided to the City and that he was aware of cooperative efforts with adjacent cities to provide public services such as Reverse 911 calls.

There was discussion of the assignment of Council Members as Management Sponsors of various Committees; that it had been determined that each Committee should choose its own Chairperson; that Council Member Carson would work with the Streetscape Committee; and that those Members were not Council appointments. It was discussed that the Committee would be meeting in 2-3 weeks and that Chair and Vice-Chair appointments could be made.

Mayor Rosamonda noted that the Freedom Festival was being planned in conjunction with adjoining cities and that he was requesting authorization for \$2,000 for first year funding. It was discussed that the Committee was composed of the five Mayors and two residents of each city; that Deltona had not yet provided sponsorship funds; that Deland had contributed \$5,000; that Orange City had the Freedom Festival on their Agenda for discussion; that Lake Helen was planning some independent events; that the funds would go to the Committee for multi-event planning; that the funds could be assessed from the General Fund; that there was a \$5,000 line item in the budget available for donations; that more information was needed before approving funding; and that more concentration was needed on DeBary.

B. City Attorney

City Attorney Ardaman updated the Council regarding pending litigation issues; that he requested either an Executive Session or Special Meeting; and that a meeting would be held on March 12, 2003 at 6:00 PM.

C. City Manager

City Manager Diamond noted that on March 6, 2003, at 9:00 AM, representatives from Congressman John Mica's Legislative Staff would meet with the City to review the City's transportation grant application for the extension of Saxon Boulevard; that the Volunteer Appreciation event would be held on May 3, 2003 from 11:00 AM to 3:00 PM at Gemini Springs Park; and that funds had already been budgeted.

XII. Adjournment. The meeting adjourned at 9:55 PM.

**APPROVED APRIL 2, 2003
CITY COUNCIL
CITY OF DeBARY**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Yaskanich, City Clerk