

City of DeBary
REGULAR CITY COUNCIL MEETING

Wednesday
April 2, 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

I. Public Participation For Any Issues Not On the Agenda

Carmella DiGiulio, 472 Eaglebrook Court, stated that there were problems with drainage in her neighborhood.

Peter Englis, 408 Soft Shadow Lane, stated that he was concerned about flooding in the area; that swales were to be dug; and that drainage was needed. Mayor Rosamonda responded that City Manager Diamond would give a review of the drainage plans for that area.

Robert Hutchinson, 464 North Pine Meadow Drive, stated that drainage systems in his area have remained full of stormwater since last summer.

Frank Lenard, 468 North Pine Meadow Drive, stated that he had the same concerns and that there was standing water around his home.

Richard Powel, 402 Soft Shadow Lane, stated that he also had concerns regarding the area drainage systems and that future above average rain conditions would not be addressed by the proposed corrective measures.

City Manager Diamond reviewed alternatives being researched to resolve drainage issues in the Soft Shadow Lane area; that much of the problem was the height of the water table; that the under-drain system was adequate for normal rain conditions; that swales would be necessary for any system; that re-grading of the swales was needed to direct water to the retention pond; that regardless of the drainage system in place, the height of the water table is the primary cause and the water table is

very close to the surface; that meetings were being held with the Glen Abbey Golf Course representatives regarding the clearing of the easement on the golf course for the retention pond; and that swales would have to be re-cut in other areas of Glen Abbey as well.

It was discussed that the Soft Shadow Lane drainage project would cost approximately \$82 thousand; that swales would be graded and resodded with Floritam; that swales had become filled in over time and needed to be re-cut and would be graded attractively; that the project design is the reestablishment of the original engineering design; that additional engineering review might be needed; that the County had been out to view the area and also recommended re-grading of the roadside swales; that work could begin the next week and County crews were reserved; and that standing water in some rear yards was due to the high water table and low lots and was not coming from the roadways. It was discussed that a solution should be in place with the Golf Course in time for the work to begin.

Richard Powel, 402 Soft Shadow Lane, stated that he had additional concerns about reconstruction of the retention area adjacent to his property. City Manager Diamond noted that it would be a gently sloped retention pond and would require Bermuda sod.

Harlan Paul, DeLand Attorney representing Glen Abbey Golf Course, stated that they were cooperating fully; that an hydrologist and a surveyor were scheduled to help expedite the reconstruction.

Michael Boland, 6 Afton Avenue, stated that he had flooding on his property on along Highbanks Road located west of Orlandia Heights and east of the RR track; that there was only one culvert under the Railroad tracks; that the RR track culvert at West Highbanks Road was clogged and was back-flooding his property; and that he had had no response from complaints to CSX regarding the culvert. Mayor Rosamonda stated that the City would send a letter to CSX requesting correction of the problem.

Shawn Harvey, 34 Hazelwood, stated that he lived in Orlandia Heights and also had flooding issues with the blocked culvert.

Fred Lotz, 126 Sher Lane, stated that he approved of retaining larger lot sizes in the Traders Cove area.

Robert Krallinger, 102 Admiral Lane, discussed the petition that was presented to the City Council request that sidewalks be constructed along that portion of Fort Florida Road that is to be paved; that the paved areas seemed to be narrower than the current dirt road; that pedestrian safety was a concern; and that he recommended immediate approval of funding. Mayor Rosamonda noted that Budget workshops would be starting in the summer and that sidewalk projects would be included in the discussions. It was discussed that recent development agreements required that sidewalks be constructed as part of the development's infrastructure.

Eugene Stump, 106 Birkwood Court, appeared on behalf of the DeBary Cleanup Committee, that a cleanup day was scheduled for April 12, 2003, and that hazardous material disposal and additional dumpsters for large items will be available for residents. He also asked whether watering schedules

could be changed; that a streetlight is needed at Donald B. Smith Boulevard and Highbanks Road. Mayor Rosamonda noted that there were efforts underway to add a street lighting district to that area of DeBary Golf and Country Club.

Mayor Rosamonda noted the attendance of County Council Member Bill Long, Deltona City Commissioner Diane Obremski and former Vice Mayor Greg France.

County Council Member Long noted the County's cooperation and assistance with the drainage issues and commended the efforts of City Manager Diamond and Assistant City Manager Yaskanich to resolve those issues in DeBary; that Deltona had been issued a declaration of a State of Emergency by the Governor; that the County Council had awarded ECHO Grants to DeBary Hall, Lake Monroe Park, Green Spring in Enterprise and Deltona soccer fields; that the City of Ormond Beach was having a workshop with the County Council concerning the establishment of a CRA and that DeBary City Council Members and Manager could attend to access the County's position on the creation of CRAs; that a Master Workshop would be held by the County Council regarding concurrency and the Martinez Plan and the relation to school overcrowding; that he and County Council Member Pat Northey had been in Tallahassee to retain Grant Funds for the County; that he had received communication regarding the School Board considering the purchase of the property at Highway 17-92 and Dirksen Drive for a High School site, that the property has already been rezoned and approved by the City for a Town Center; and that the City Council should take action to oppose construction of a High School on that property.

It was discussed that the proximity of the area to the student population was not appropriate; that there were other properties available; that Mayor Rosamonda had worked with the entities involved to locate a High School at the proposed Saxon Boulevard extension; that the Saxon Boulevard extension project had not met with approval; that the School Board had gone on to review other sites as well; that the revenue from the proposed Town Center site would have been an asset to the City, but a High School at that location could also have economic advantages; that there were benefits to families and students and the City quality of life environment; that the creation of a CRA could open other economic opportunities; that the Town Center could be considered for other areas; that a High School could be advantageous in the long term; and that the developer had the option to sell the property to any entity it wished. It was further discussed that the School Board had felt that other properties proposed had too many off-site improvement limitations; that the property in question did not have the acreage to allow appropriate development or expansion of facilities; that the proximity to Highway 17-92 also offered safety and traffic concerns; that the effort expended by the City Council to develop the Town Center concept for that area should be a consideration to oppose a School location; and that traffic and safety during extra-curricular activities was also a concern.

County Council Member Long reiterated that he was certainly not opposed to a High School for the City of DeBary, but that the expenditure of the City Council's time and City money for the completion of the Town Center Concept as well as the limitations of size and location of that property for a High School were his primary concerns.

Former Vice Mayor France stated that he would be disappointed to lose the vision that had taken so much effort on the part of the City Council for the Town Center concept; that he would support a

resolution to request that the School Board choose another site for the High School; that he would support the involvement of the City in pursuing the Saxon Boulevard extension project; and that he did not feel the proposed site to be appropriate.

Deltona City Commissioner Diane Obremski, 2140 Vance Road, Deltona stated that she was also Chairperson of the Gemini Springs Center for the Arts and was a proponent of the Town Center concept and anticipated an Arts Center there; that she also felt that the overall economic loss of the commercial property and the traffic concerns were also considerations to oppose the High School site.

The consensus was that a Resolution opposing the location of a High School at Highway 17-92 and Dirksen Drive would be placed on the next City Council agenda.

IV. Approval of Minutes

1. Regular City Council Meeting held February 5, 2003.
2. City Council Workshop held February 26, 2003.
3. Regular City Council Meeting held March 5, 2003.

Mayor Rosamonda entertained a motion to approve. Motion was made by Vice Mayor Coleman. Council Member Gunter seconded. The motion carried unanimously.

V. Presentations

1. Proclamation – Declaring April Water Conservation Month.

Mayor Rosamonda, on behalf of the City Council read the Proclamation declaring April 2003 as Water Conservation Month as requested by the Volusian Water Alliance to educate the public on the need to preserve water resources.

Deborah Green of the Volusian Water Alliance stated that water concerns would be increased in the future.

2. Proclamation – Declaring April 6, 2003 DeBary Parents' and Children's Day

Mayor Rosamonda, on behalf of the City Council read the Proclamation that declared April 6, 2003 as DeBary Parents' and Children's Day.

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 – Revised First Reading - Providing for Placement of Utilities Underground for New, Reconstructed, Expanded or Relocated Utilities-Continuation.

City Attorney Ardaman read Ordinance No. 17-02 by title. Mayor Rosamonda closed the City Council public hearing without objection and opened the Land Planning Agency hearing. It was discussed that City Attorney Ardaman had communicated with Public Service Commission representatives as well as representatives of the utility companies affected; that the City would have more control over underground placement of utilities; that there was provision to waive requirements in specific cases; and that the final version was dated March 25, 2003.

Mayor Rosamonda entertained a motion to recommend approval of Ordinance 17-02 to the City Council. Motion was made by Vice Mayor Coleman. Council Member Gunter seconded. The motion carried unanimously. Mayor Rosamonda closed the Land Planning Agency without objection and reopened the City Council public hearing. Mayor Rosamonda entertained a motion to adopt Ordinance 17-02. Motion was made by Council Member Gunter. Vice Mayor Coleman seconded. The motion carried unanimously.

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

City Attorney Ardaman read Ordinance No. 04-03 by title. Mayor Rosamonda reviewed the need for the proposed changes.

Richard Seitz, 39 Craycroft Avenue, opposed the re-zoning of the Highbanks Warehouse and Storage facility site; that permitting retail sales would be disturbing to area residents; that restrictions should be in place to prevent the conducting of business from the storage units; and that he is presenting a petition opposing the re-zoning.

It was discussed that there was a conflict between the zoning classification and the City's comprehensive plan future land use designation; that the proposed zoning allowed less intensive and industrial uses and would still allow the property owner to conduct his current business; that lack of parking would prohibit retail use or retail sales from those units; that code enforcement actions and occupational license requirements would prevent violations. Mayor Rosamonda entertained a motion to approve Ordinance No. 04-03. It was discussed there were complaints concerning sign violations but that the City had not received any signed affidavits as to retail sales occurring. Motion was made by Council Member Allen. Vice Mayor Coleman seconded. The motion carried unanimously.

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

City Attorney Ardaman read Ordinance No. 05-03 by title. It was discussed that if the Council appointed committee members in January, newly sworn-in Council members would not have sufficient time to select their appointees. Mayor Rosamonda entertained a motion to approve Ordinance No. 05-03 amending paragraph B-2 to change Council appointments from January to

February. Motion was made by Council Member Gunter. Vice Mayor Coleman seconded. The motion carried unanimously.

4. Resolution No. 03-06 - Minor Amendment to DeBary Plantation (DeBary Golf & Country Club) Planned Unit Development.

City Attorney Ardaman read Resolution No. 03-06 by title. Volusia County Planner Scott Ashley reviewed the proposed changes to the manner in which landscape area setbacks are measured for the commercial areas and that the change is requested because Highway 17-92 has been widened since the original PUD approval in 1988. It was discussed that a landscape buffer would still be in place and that building setbacks would remain the same. It was also discussed that the streetlighting district for Donald B. Smith Boulevard was also being expedited by DeBary Golf & Country Club. Mayor Rosamonda entertained a motion to approve Resolution No. 03-06. Motion was made by Council Member Allen. Council Member Carson seconded. 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. Resolution No. 03-03 - Amending Fiscal Year 2002/2003 Budget.
- *2. Resolution No. 03-04 – Renewing the Memorandum of Agreement with FDOT for the maintenance of Highway 17-92 from Lake Monroe Bridge to Saxon Boulevard.
- *3. Resolution No. 03-05 - Updating the Community Development Block Grant Five-Year Planning Budget and the Annual Plan Worksheet for Fiscal Year 2003/2004
- *4. Enterprise Industrial Park – File No. 98-F-FSP-0015 – Final Site Plan.
- *5. Parks Maintenance for Bill Keller and Community Park.
- *6. Ordinance No. 06-03 – First Reading Granting Senior-Low Income Additional Homestead Exemption.
- *7. Ordinance No. 07-03 - First Reading – Amending Article IV. Noise: Section 30-136.

Vice Mayor Coleman requested that Ordinance No. 06-03 be removed from the Consent Agenda and discussed separately. City Attorney Ardaman read Ordinance No. 07-03 and Resolution No. 03-03, Resolution No. 03-04 and Resolution No. 03-05 of the Consent Agenda by title.

Mayor Rosamonda entertained a motion to approve the Consent Agenda. Motion was made by Vice Mayor Coleman. Council Member Gunter seconded. The motion carried unanimously.

City Attorney Ardaman read Ordinance No. 06-03 by title. Former Vice Mayor France stated that he opposed the proposed Ordinance; that economic analysis did not support the exemption; that the administrative costs for the program would be reflected in other higher governmental service charges, that these increased charges would be more detrimental to Seniors than any potential savings in the long term; and that the City should explore other programs that would provide more benefit.

It was further discussed that Ad Valorem taxes for the City of DeBary had been reduced or maintained over the past four years; that an equitable overall reduction of property taxes was a goal to be pursued; that the City could support the exemption; that there was not a higher and better use available for those tax dollars; and that the City's reserve accounts have been reduced to fund projects. Mayor Rosamonda entertained a motion to approve Ordinance No. 06-03. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried unanimously.

III. Growth Management and Development Review

1. Case D-02-048 - Application of Mark A. Watts, Agent for Owner, Elizabeth Rhett West Trust Requesting an Amendment to Extend a Special Exception for a School in the A-2 (Rural Agricultural) Zoning Classification for Property Located at the Southeast Corner of the intersection of Fort Florida Road and Highbanks Road.
2. Case D-02-049 – Application of Mark Z. Watts, agent for Owner, Elizabeth Rhett Trust Requesting an Amendment to Extend a Special Exception for a House of Worship in the A-2 (Rural Agricultural) Zoning Classification for Property Located at the Southeast Corner of Fort Florida Road and Highbanks Road.
3. Case D-02-050 – Application of Mark Z. Watts, agent for Owner, Elizabeth Rhett Trust Requesting an Amendment to Extend a Special Exception for a Group Home in the A-2 (Rural Agricultural) Zoning Classification for Property Located at the Southeast Corner of Fort Florida Road and Highbanks Road.

It was discussed that Cases D-02-048, D-02-049 and D-02-050 could be discussed together but would require separate Council votes; that the extensions were requested for the time to implement the special exception. Volusia County Planner Scott Ashley noted that the Development Order for the House of Worship would initiate time frames for the other projects. It was discussed that the time frames should have been included in the original application. Mark Watts, agent for Owner, Elizabeth Rhett Trust, noted that the proposed amendment was an additional precaution. Mayor Rosamonda and Vice Mayor Coleman disclosed ex-parte communication with interested parties. Mayor Rosamonda entertained a motion to approve Case D-02-048. Motion was made by Vice Mayor Coleman. Council Member Allen seconded. The motion carried unanimously.

Mayor Rosamonda amended the motion in Case D-02-048 for approval of the Special Exception for a Private School from 10 years of the issuance of the Development Order for the House of Worship. Motion was made by Vice Mayor Coleman. Council Member Gunter seconded. The motion carried unanimously.

Mayor Rosamonda entertained a motion to approve Case D-02-049 extending the Special Exception for a House of Worship five years from the date of the requested modification, unless the Development Order is issued by the City prior to that date. Motion was made by Council Member Allen. Vice Mayor Coleman seconded. The motion carried unanimously.

Mayor Rosamonda entertained a motion to approve Case D-02-050 modifying approval of the Special Exception for a Group Home to expire within 10 years of the issuance of the Development Order for the House of Worship. Motion was made by Council Member Gunter. Vice Mayor Coleman seconded. The motion carried unanimously.

4. Bechir Tree Removal Permit – File No. 03-P-TRE-0287

Volusia County Land Development Manager Palmer Panton stated that the County Forester recommended approval of the removal and replacement or protection of other trees or remuneration. Scott Bechir, 258 Shadydale Court, stated that he was retaining more trees than required by the County; that the tree in question was damaged; and that in order to place a house on the lot and preserve other healthier trees, removal was necessary. Vice Mayor Coleman moved to approve. It was noted that trees totaling 46” in diameter had to be preserved to replace the tree in question. Council Member Gunter seconded. The motion carried unanimously.

5. Request to Waive Code Enforcement Board Fines for 143 Delespine Drive, Case No. DEB-01-001 and DEB-01-002.

It was discussed that the property had been foreclosed upon by the mortgage holder; that the foreclosure company had requested removal of the accrued fines; and that City Manager Diamond recommended administrative Costs of \$976.40 be paid to the City. Ann Cruz-Alvarez, Attorney representing Chase Manhattan Mortgage Corporation, 9830 SW 77th Avenue, 2nd Floor, Miami, Florida 33156, was contacted via telephone; that the Code Enforcement Board had imposed fines after foreclosure; that Chase Manhattan’s position was that the liens had been foreclosed as well; that clear title required removal of liens; and that she did not have authority to approve payment of administrative costs. City Attorney Ardaman reviewed the legal position of the City and that it was the decision of the Council as to the disposition of the lien. It was further discussed that the foreclosure had been delayed and the foreclosure company was not able to cure defects; that the City did not have superiority of the lien, but was not named in the foreclosure proceedings; that the City had authority to leave liens in place and require payment of fines; and that by allowing payment of a lesser amount, there would be an incentive for cleanup and sale of the property.

Mayor Rosamonda entertained a motion in Case No. DEB-01-001 and DEB-01-002 with a balance of \$26,250, that upon a payment of \$976.40 by the close of business 30 days from the date of April 2, 2003, that the City waive the remaining balance of \$25,273.60 and, if not paid, the entire balance would be due and payable. Motion was made by Council Member Allen. Council Member Carson seconded. It was further discussed that the additional fines should be collected. The motion carried 4-1 with Vice Mayor Coleman dissenting.

It was discussed that in respect to Code Enforcement Actions, ordinances could be put in place to provide better position as to the priority of Liens; that the City could also foreclose on properties; that a Code Enforcement super priority lien ordinance might provide for higher settlement amounts.

IX. Old Business

1. Agreement for the Exclusive Use of Soft Drink Products and Scoreboards at Bill Keller and Community Park.

Mayor Rosamonda noted changes made to the agreement with the assistance of Council Member Carson. Mayor Rosamonda entertained a motion to approve the Agreement. It was noted that DeBary Little League approved of the agreement as presented. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

X. New Business

1. Discussion of Volusia County Emergency Medical Services Regulations.

City Manager Diamond reviewed the proposed changes to Volusia County Ordinances and that comments were requested from the City; that there were some concerns with first response issues; and that he recommended that the City not offer comment at this time as the report was a rough draft and would probably undergo additional revisions. It was discussed that any Council Member comments be provided to City Manager Diamond before April 25th; that DeBary has contracted fire services with the County and would not be impacted as other Cities; and that the City could respond favorably to the closest unit response program and reserve other comment until the document was completed. Mayor Rosamonda entertained a motion to respond to VCOG that the City was in agreement with the first response system as written in the final draft report to the comprehensive system assessment for VCOG, Inc. and reserved the right to make further comments on the Draft. Motion was made by Vice Mayor Coleman. Council Member Carson 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: Senior Program Advisory Committee
Alternate
- B. Board: Teen Program Advisory Committee
Teen
- C. Board: 10 Year Anniversary Committee
Regular Member

Vice Mayor nominated David Berlin for appointment. Mayor Rosamonda entertained a motion to appoint David Berlin to the 10 Year Anniversary Committee. Motion was made by Council Member Carson. Vice Mayor Coleman seconded. The motion carried unanimously.

- D. Board Historic Preservation Advisory Committee

City Manager Diamond recommended that appointments could be made and requested that Council members develop specific goals and objectives for this committee. Council Member Allen recommended Jesse Beall as a committee member. It was the consensus of the Council that the matter would be addressed at the next meeting.

3. Member Reports/Communications

A. Mayor and Council Members

Recent Council Member activities were noted; that Council Member Gunter had ridden with the Sheriff's Department recently and recommended that other Council Members also take the opportunity; that he had great admiration for the members of the Sheriff's Department; that he had been able to see another aspect of DeBary. Council Member Carson asked for updates from City Manager Diamond regarding the Streetscape Committee; that Progress Energy was working on cost estimates for streetlights which should be available shortly; and that the Streetscape Committee would be meeting thereafter to review that and the asphalt stamping estimates.

It was discussed that permits from FDOT for the beautification of the Highway 17-92 medians had not been received yet; that bid documents were being prepared for the Gateway Park pillar and rail fence. It was also discussed that Mayor Rosamonda and City Manager Diamond would be attending a Workshop in Ormond Beach regarding the creation of a CRA; that information could also be applicable to DeBary as to the involvement of the County for an incremental financing program for the CRA.

It was also discussed that City Manager Diamond had been researching property records trying to locate an 80-acre tract in DeBary for an alternate High School site and had not located any appropriate property; that the Saxon Boulevard extension site is still being promoted as a possible high school site; that Council Members should be alert for any information on any

available property; that City Manager Diamond was also soliciting willing seller statements from riverfront property owners which would be beneficial for Grant funding applications.

Mayor Rosamonda commended City Manager Diamond, Assistant City Manager Yaskanich and Staff for their efforts on the stormwater and drainage issues.

B. City Attorney

City Attorney Ardaman updated the Council concerning pending litigation.

C. City Manager – Emergency Purchase Notification

City Manager Diamond noted that he had authorized an emergency purchase in the amount of \$37,748.00 for 16” pipe to relieve line restrictions in the Emergency Flood Management System; that there was a meeting with Lynx at the DeBary Library on April 3, 2003 regarding Commuter Rail and that Assistant City Manager Yaskanich would be attending; and that there was an invitation from the School Board for a joint meeting with the Council and a time could be set.

XII. Adjournment. The meeting adjourned at 10:15 PM.

**APPROVED May 7, 2003
CITY COUNCIL
City of DeBary**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Yaskanich, City Clerk