

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
October 1, 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.

III. Public Participation For Any Issues Not On the Agenda

Eugene Stump, 106 Birkwood Court, spoke of a safety concern on Springview and Shell Roads; that double yellow lines should be painted due to increased traffic traveling at high rates of speed; that there were children in the area; and that he had spoken to the Sheriff's Department and City Staff regarding the matter.

It was discussed that it would be a policy decision by the City Council and that City Manager Diamond would obtain estimates for striping.

Mayor Rosamonda reminded the public that the Halloween Haunted Hike would be held on Saturday, October 25, 2003 at Gateway Park.

Captain Osowski of the Volusia County Sheriff's Department in DeBary brought Officer Genao and his K-9 Partner Britt to introduce to the public and to the Council; that the dog was trained in search and tracking; and that the dog had already assisted the Department.

IV. Approval of Minutes

1. Special City Council Meeting held August 20, 2003.
2. Regular City Council Meeting held September 3, 2003.
3. Special City Council Meeting held September 17, 2003.

Motion to approve Minutes as revised was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

Regular City Council Meeting
October 1, 2003

V. Presentations

1. Proclamation – Florida City Government Week – October 19 to October 25, 2003.

Mayor Rosamonda read the Proclamation to declare October 19 to October 25, 2003 Florida City Government Week recognizing the role that local government plays in developing and encouraging civic involvement.

VI. 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. Ordinance No. 15-03 Rezoning Approximately .3 Acres of Property Located At the Intersection Between Azalea Drive and Hibiscus Drive West of Highway 17-92 from R-4 (Urban Single Family Residential) to BPUD (Business Planned Unit Development) – **First Reading.**

City Attorney Ardaman read Ordinance No.15-03 by title. Attorney Alan Watts discussed that the conditions were appropriate to the application; that the exterior of the building would not be changed; that the State Farm sign should be checked to see if it was available in 6' size; that the 10' buffer could include augmentation of existing landscaping; that new lighting would not be added and existing lighting would remain; and that application for permit would be made as soon as possible if approved.

Volusia County Planner Scott Ashley clarified that the landscaping would include existing plantings and would be augmented; that existing signs on the property would be removed and that a single 6' square sign was indicated; that no additional exterior lighting would be added; that a zoning change would be required; and that the building was older and non-conforming and dictated the type of setbacks.

It was discussed that a PUD had acreage requirements; that it was a non-residential building and would be the least intrusive usage by being limited to an insurance office only. City Attorney Ardaman noted that recent court rulings on Code in the rezoning process would not cause an establishment of precedent; that future PUD applications should not be affected; and that the Council had sound legal footing to approve this particular case. It was further discussed that the building was not in the Gateway Standards Zone; that the Signage Ordinance did not apply in the area, but a restriction could be included in the PUD requiring a monument sign; that it was required that the existing signs would be removed; and that language that the sign be non-illuminated would be included.

Mayor Rosamonda entertained a motion to approve Ordinance 15-03 including the County Staff report, subject to the eight conditions. Motion was made by Council Member Allen. Council Member Gunter 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. Request for Release of Maintenance – Saxon Woods Unit 1 – File No. 98-S-FPL-0156.
- *2. Request for Release of Maintenance – Saxon Woods Unit II-A – File No. 99-S-FPL-0341.
- *3. Request for Release of Maintenance – Saxon Woods Unit II-B – File No. 01-S-FPL-0468.
- *4. Final Plat – DeBary Commercial Subdivision– File No. 03-S-FPL-0273.
- *5. Final Site Plan – Volusia County Southwest Regional Water Reclamation Facility – File No. 03-F-FSP-0731.

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

VIII. Growth Management and Development Review

- 1. Request to Waive Fine and Release Lien by Sally Neider – Code Enforcement Board Case No. DEB-00-021.

City Manager Diamond reviewed the Case; that a chronology of events was provided and that the applicant requested a continuation. The Case was continued without objection to the meeting of November 5, 2003.

- 2. Discussion of Site Plan Requirements for Proposed Dollar General Store on US Hwy 17-92.

Volusia County Planner Scott Ashley discussed that the project was in the site plan review process under the Gateway Standards; that one issue was the regulation specifying the height of the two-story façade; that they requested a 16' high façade; that other requirements were met; that the building had a 12' ceiling height and the feature on the roofline would run from 16' to 18'; and that it would be a hardship for the company to meet the 26' height requirement. Vice Mayor Coleman noted ex-parte communication with interested parties. It was discussed that a parapet could not be built high enough on a

single-story building to meet the height requirement; and that a two-story building was not feasible for many retail companies.

John Wanamaker, representing Dollar General Store, discussed that effort was being made to meet Gateway Standards; that many facilities might have a difficult time meeting the height requirement; that two site plans were submitted due to issues with the County and DOT with road access; that the entrance would probably be perpendicular to 17-92; and that all other elements met the Standards.

It was discussed that it was the purpose of the Gateway Standards to have two-story buildings with office space available in the second stories and that the lot was a small area for the size of the store. Mr. Wanamaker noted that the coverage on the lot was 18% which was less than Code requirements; that a two-story building was not required and would be cost prohibitive; that the lot was one of the largest remaining lots in the area; that there was no incentive being asked from the City; and that the Gateway Standards requirements might be too stringent for development occurring on smaller lots in the City.

It was further discussed that the Dollar General Store had a standard ceiling height of 10-12'; that they were a smaller retailer; and that most retailers leased buildings from developers building to specifications. There was discussion of the Charettes that had been held to create the Gateway Standards; that input had been requested at that time; and that the Standards were developed from the Neo-Traditional Standards. It was also discussed that the cost per square foot for two-story buildings could be prohibitive to developers; that waivers on the Gateway Standards would set precedent and would jeopardize the vision for the 17-92 corridor; and that the CRA Study was being implemented to address the issue of lot sizes and support development under the Gateway Standards.

There was discussion that the Gateway Standards could be modified with City Council Approval; that to begin implementation of the Gateway Standards would require adherence to those Standards; that Mr. Wanamaker was trying to adhere in all other respects to the Standards; that the building could be built at 20' with dropped ceilings and additional facades to meet the requirements; that building two stories would also increase parking density and could not be accommodated on that lot; and that the Gateway Standards could be reviewed on the Standard requiring the 26' height.

Scott Ashley noted that for two stories on the building the footprint would have to be 4000 square feet to meet setback, drainage and parking requirements and that a two-story building was not feasible. It was further discussed that conformity in the Village Overlay area was desirable. City Attorney Ardaman reviewed the legal definitions for a hardship situation; and that an owner/applicant would have to show that there was no viable use of the property.

It was discussed that the issue was for discussion only at this time; that it appeared to be the consensus of the majority of the City Council of the City of DeBary that the Gateway Standards should be adhered to; and that no formal action had been taken on the issue.

IX. Old Business

1. City Manager's Annual Performance Evaluation.

It was discussed that written evaluations had been done; that points provided guidance to areas requiring additional attention; that Goals and Objectives had been met; and that his performance had been exemplary. Mayor Rosamonda recommended that Mr. Diamond's contract be continued and a salary increase provided; that his managerial strengths, knowledge, ethics, community involvement and response to residents were of a very high standard.

Council Member Gunter noted that he had met with Mr. Diamond, reviewing his performance; that he felt that his performance was more than adequate; that a change to the Evaluation Form should be made; and that he recommended continuing Mr. Diamond's contract and approve a salary increase.

Vice Mayor Coleman discussed that he had rated Mr. Diamond more highly this year; that Mr. Diamond had become more familiar with City issues after his first year; that he had accomplished a great deal; and that he recommended a 5% increase.

Council Member Carson discussed that he agreed with the comments of his fellow Council Members; that he had discussed the Goals and Objectives for the coming year with Mr. Diamond; and that he felt a 5% increase was within reason.

Council Member Allen discussed that he had not completed the Evaluation Form; that he had spoken with Mr. Diamond; that Mr. Diamond had met every date and deadline that he had been given; and that he recommended a 6% increase to Mr. Diamond's salary.

Mayor Rosamonda discussed that only a 3% increase was given last year and that Mr. Diamond had had no increase for the fiscal year for the first several months with the City; that he considered that 7 to 8% would average to approximately 10% for the length of his time with the City; and that in comparison with other managers in other communities his salary was not commensurate.

Motion was made by Vice Mayor Coleman to approve a 6% increase. Council Member Allen seconded. It was discussed that 6 % was reasonable but on the low end; and that 7% might be more appropriate. The motion was withdrawn by Vice Mayor Coleman and the second by Council Member Allen. Motion was made by Vice Mayor Coleman to provide a 7% increase. Council Member Allen seconded. It was further discussed that the contract was perpetual but had been presented for review of conditions and terms; that the evaluation was late; and that the increase would commence on October 1, 2003. The motion carried unanimously.

City Manager Diamond thanked the City Council for their comments and stated that he enjoyed his working relationship with the City.

X. New Business

1. Approval of Purchase Agreement with Progress Energy for 17.8 Acres.

City Manager Diamond reviewed that Progress Energy had received an appraisal for \$340,000; that they had agreed to sell the existing ten acres of Community Park for \$10; that due to Scrub Jay issues in the surrounding property, Progress Energy requested a Purchase Agreement to be completed to provide time for the City to complete Due Diligence; that a standard contract had been reviewed by the City Attorney; that Progress Energy attorneys would review his changes; and that the City Council authorized City Manager Diamond to finalize the contract in order to get the environmental consultant to do the Scrub Jay survey.

It was discussed that the existing ten acres should be purchased initially at \$10 under separate contract; that clearing and cutting of trees on the property had to be addressed; that walking trails and picnic areas could be placed without mitigation if Scrub Jays were present, but active developments, such as ball fields, would require mitigation; that Progress Energy had Agricultural Zoning on the property that could allow them to harvest trees without permit; that the Environmental Survey would show what areas could be cleared; that the contract should have a contingency that Progress Energy would harvest the timber; and that the City could act as their agent until closing and have the trees harvested. City Attorney Ardaman discussed how much clearing of the 17.8 acres was desirable; that the Scrub Jays were not commonly found in treed areas; that a provision to utilize the areas after clearing had to be included; that as much property as allowable should be cleared; and that City Manager Diamond had been advised that onsite and offsite mitigation might require as much as two acres for each one acre of the Park property containing Scrub Jay habitat.

It was further discussed that Progress Energy had verbally agreed to the price of \$340,000; that that would probably be a firm price; that sufficient land for any onsite mitigation would be needed; that the Progress Energy representative stated that additions or deletions from the 17.8 acres would be discussed after a Purchase Contract was completed; that the property appraised was further west than the City necessarily desired; and that it was approximately 300 feet from the existing soccer field and the road.

The Purchase Contract was discussed; that it did not include the ten acres of existing Park property; that if a separate contract were not approved, it would be included with the additional 17.8 acres; that the City Manager and City Attorney would continue negotiations and finalize the contract; that they could come back before the City Council at the next meeting to finalize the contract; that the Environmental Survey would have to be completed in the 120-day time frame; that a deposit of \$1,000 was included in the contract and had already been approved; and that the price on the contract was subject to reduction based on mitigation expenses.

Mayor Rosamonda entertained a motion to authorize City Manager Diamond and City Attorney Ardaman to continue negotiating a contract for sale of the real estate in similar fashion to the Contract for Sale provided and to provide authorization to sign a contract

up to \$340,000. Motion was made by Council Member Carson. Council Member Allen seconded. It was further discussed that a separate contract would be sought for the existing ten acres. The motion carried unanimously.

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

1. Board Committee Reports

A. 10 Year Anniversary Celebration Committee – Review of Contracts.

It was discussed that a production company was being finalized; that there were no contracts to review at this time; that Assistant City Manager Yaskanich was assisting the 10-Year Committee; and that a Special Meeting might be needed later in the month.

2. Board/Committee Appointments

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| A. | Historic Preservation Committee | Gunter |
| B. | Code Enforcement Board Alternate | Gunter |

3. Member Reports/Communications

A. Mayor and Council Members

Vice Mayor Coleman discussed the Economic Development Advisory Committee meeting reviewing the CRA study; that there would be additional meetings; that many people had not understood the scope and goal; that there was a Smart Growth Summit being held that might be of interest to Members of the Council; and that the Volusia Legislative Delegation Meeting would be held October 15, 2003 in DeLand.

Council Member Allen asked to meet the new Parks and Recreation employee. Anthony Gonzalez discussed that cleanup was high on the agenda; that the Superintendent position was being advertised; and that when that position was filled, things would move more quickly.

Council Member Gunter discussed his attendance at the VCARD reception and that there was a land mitigation program in Florida that might assist the City with Environmental mitigation. City Manager Diamond noted that there were established mitigation areas for Wetlands; that one was being developed for Scrub Jay in Volusia; and that the environmental firm which is under consideration for the Park property was the consultant for Volusia County to get that established. City Attorney Ardaman still noted that there would be costs involved. Council Member Gunter also noted that he had spoken to Congressman Mica regarding the extension of Saxon Boulevard at a meeting; that he had also attended the meeting of the 10-Year Anniversary Committee; and that the Committee would be meeting weekly.

Council Member Carson discussed the property in Glen Abbey and stated that the owner, Sandra Lowe, had been contacted; that City Manager Diamond was reviewing any

available grant funds; and that he would like to see it pursued. It was discussed that it was previously the Mercedes Homes' offices with tennis courts on the property; that there might be enough tennis courts to create a tennis league to make the property self sustaining; and that revenue could be generated.

Vice Mayor Coleman also noted that there were plans for a rail track and station; that Congressman Mica had been contacted; and that he might be able to provide support to tie the track and station into the Saxon Boulevard Extension.

Mayor Rosamonda discussed that the Goals and Objectives for the City Manager had to be completed; that a Special Meeting would be held on October 22, 2003; and that 10-Year Anniversary contracts could be reviewed at that time. It was discussed that each Council Member would provide a list of seven Goals and Objectives to compile a list and that Budget Amendments would be discussed at the November meeting.

Mayor Rosamonda called on EDAC Chair Carol Lawrence and commented on the CRA workshop; that the Consultants might need to be more informed on the restrictions for Bond issues in the City; and that clearer communication with residents and business owners seemed to be in order. Ms. Lawrence discussed that she felt the presentation was a much generalized review; that the Committee would contact Doug Kelly; that the Mayor would be happy to join a discussion and provide more specifics to the Consultants; and that City Manager Diamond felt that the issue was with the economist who did not have adequate information. Mayor Rosamonda wanted it to be clear that the only tax increases that would occur would be from increases to property values; and that the tax revenues would be reinvested in their areas of the community. Ms. Lawrence noted that another Business Round Table was being planned for the end of the year and more information would be communicated at that time.

Mayor Rosamonda discussed that DBCC and the Chamber of Commerce would be doing a presentation to the County Council on concepts for a Conference Center; that they would be requesting partnership with the County; that the Mayors had met to discuss community needs to be included in the concepts; and that workshops would be held for additional input. He further discussed that a three-city partnership was proposed with DBCC and the County; that City Manager Diamond could be authorized to draft an Interlocal Agreement with the other city managers and research what would be required of and available to each City over the three to five years that would be needed; that it had been discussed that application for ECHO Grants could be done by DBCC; that it had been proposed that Deltona could provide \$1 million and Orange City and DeBary \$500,000 each, over three to five fiscal years; and that he wanted to know the will of the City Council of the City of DeBary to have City Manager Diamond begin the process of an Interlocal Agreement.

It was discussed that the Mayors had met with DBCC on September 13, 2003 at the request of DBCC to provide input on community needs to their architect; that the Chamber of Commerce had also participated; that it was strictly various conceptual plans being drawn up to present to the County; that total dollar amounts would include ECHO

grants and state and federal dollar matching; and that a final amount was not known at this time. It was further discussed that the County might not wish to participate; that there appeared to be support among elected officials; and that after the meeting tomorrow there would be more information on County support and DBCC involvement.

City Manager Diamond noted that he had met with the City Manager of Orange City and discussed the matter. It was further discussed that information on the extent of involvement with DBCC and the County was needed in order to provide direction to City Staff; that the Chamber of Commerce was involved as well; that the meeting at the County would be at 2:30 PM on Thursday, October 2, 2003; and that more workshops could be held as the project continued to develop.

Mayor Rosamonda also noted that there was an event at DBCC with their Economic Development Endowment Fundraiser with a cost of \$1,000 per table and that Orange City had asked whether DeBary wished to share a table with them. It was discussed that it had been voted on in the previous meeting that functions with educational criteria would be City funded; and that it was the choice of the individual Council Members if they wished to attend.

B. City Attorney

City Attorney Ardaman noted that the suit regarding the Summerhaven Storm Water Pond had been resolved.

C. City Manager

City Manager Diamond noted that he would be unavailable on October 22, 2003 and that the Goals and Objectives could be reviewed at the November 1, 2003 meeting.

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

**APPROVED November 5, 2003
CITY COUNCIL
CITY OF DeBARY**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk