

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
January 7, 2004
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 Courson, and City Attorney Kurt Ardaman

Also Present: County Council Member Bill Long

Presentations were made at this time.

III. Public Participation For Any Issues Not On the Agenda

Robert Knott, 100 Glen Club Court, stated his concerns on behalf of his friends and neighbors regarding a drainage and road erosion problem; that the drainage system had collapsed at 317 Glen Club Drive and that a spring had been diverted into that drainage system; that the soft ground was a safety hazard; that he was an engineer with experience in this situation; that he would offer his insight to assist the City with a long-term solution; that the ground supporting the sidewalk across the street was eroded; that the road would fail with the ground saturation and heavy traffic; that the storm drain to the retention pond was filled with sand and the pond was filling; that a repair alone would not prevent future erosion; that the current storm water system was not efficient; and that he suggested an alternate solution that would be a more involved matter.

Thomas Marshall discussed that a letter had been received from Leland Management citing that the City Manager had assured that the problem would be solved within the month; that he felt the problem was being caused by an outside water contribution to the storm water system; and that he would ask the City to come out and observe the site and work for a better solution.

City Manager Diamond discussed that the area had been researched and reviewed; that the system was re-worked four years ago and was now failing; that the proposal to repair the existing system was estimated at \$99,000; that the street in the area was a private road; that the runoff

was from a public stormwater system that ran through Glen Abbey North, that a portion of pipe was crushed and was causing water to back up; that the pipe repair would direct the runoff to the Lake; and that Assistant City Manager Maryann Courson had been in communication with residents and with Leland Management. Mayor Rosamonda asked that priority be given to the situation. It was further discussed that an engineering study would take several months to complete; that the Road and Bridge Department could begin repairs the week of January 16, 2004; that the matter would have to be brought back before the City Council for approval of funds; that residents would have to be made aware that the situation would continue until such engineering was completed; and that review of the system had not disclosed why the system had failed.

There was discussion that estimates from the engineer should be brought back before the City Council and that a proposal would be ready in February.

City Manager Diamond introduced the new City Planner, Anita Gonzalez; stating that she would be coordinating Development Reviews and Zoning with Volusia County and involved with Code Enforcement, Historic Preservation, Economic Development, Comprehensive Planning, and Grants. Mayor Rosamonda welcomed Anita Gonzalez.

IV. Approval of Minutes

1. Regular City Council Meeting held December 3, 2003.

Motion to approve was made by Council Member Gunter. Council Member Allen seconded. The motion carried unanimously.

V. Presentations

Presentations were made after Roll Call.

Mayor Rosamonda stated that the 10-Year Anniversary Celebration was held on January 2, 3 and 4 and introduced Chairman Patrick Fulton of the 10-Year Anniversary Celebration Committee; Mr. Fulton thanked the City and its employees who helped throughout and introduced all of the Committee Members for their work; and recognized and thanked the volunteers and sponsors. The 10-year Anniversary Committee was presented with plaques in appreciation for their volunteer service to organize and work this special event and the City presented dinner certificates for each Committee member as a thank you gift.

County Council Member Bill Long, on behalf of the Volusia County Council, proclaimed the week of January 4 to 10, 2004 as the City of DeBary's 10-Year Anniversary Week; that the City and residents were congratulated on the recent event.

Mayor Rosamonda thanked the County of Volusia for their partnership with the City of DeBary.

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. Request for Variance – Zoning Case No. D-03-009 – Application of Peter Klich for Mike Marks, Owner for an Accessory Structure Setback of 4 feet in lieu of the Required 5 feet at 192 Hazeltine Drive in a RPUD (Residential Planned Unit Development Zoning Classification).

It was discussed that Volusia County Planner Scott Ashley had provided a letter requesting a continuance. Motion to continue Zoning Case No. D-03-009 to February 4, 2004 at 7:00 PM was made by Council Member Gunter. Council Member Allen 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. Final Plat – DeBary Plantation Unit 13C-2 (DGCC) – File No. 04-S-FPL-0126.
- *2. Overall Development Plan - Hoozky Subdivision – File No. 04-S-OPD-0106.
- *3. Ordinance 01-04 – Expanding Parkview Streetlighting District.

Item number 2 was removed from the Consent Agenda.

Item number 1 was discussed; that the plat's dedication statement showed that the City had a responsibility for maintenance; that drainage to City ponds required consistency throughout a subdivision. Land Development Manager Palmer Panton discussed that the drainage belonged to the public; that Note 12 on the plat showed that the drainage easements were to be maintained by and were dedicated to the homeowners association. It was discussed that it was not made clear as to the type of maintenance that was the responsibility of the City and the responsibility of the homeowners association and that the wording could be made clearer. City Attorney Ardaman discussed that it had been understood that the drainage was to be handled by the public and that additional clarity was needed in the matter. It was further discussed that there did appear to be a conflict of language; that City Attorney Ardaman needed to have clarification of the substance of the rights and obligations as to the City and as to the homeowners association. It was discussed whether the item should be removed or approved with the condition of the revision of the plat language and that City Attorney Ardaman immediately would take a few moments to review items 1 and 2 on the plat. City Council continued with other items on the Agenda at this time.

City Manager Diamond read Ordinance 01-04 by title. Mayor Rosamonda entertained a motion to approve Ordinance 01-04 on first reading. Motion was made by Council Member Allen. Vice Mayor Coleman seconded. The motion carried unanimously.

VIII. Growth Management and Development Review

1. Final Site Plan – Volusia County/DeBary Hall Visitor’s Center – File No. 04-F-FSP-0091.

Land Development Manager Palmer Panton discussed the request from Volusia County Leisure Services and stated that the County representatives were present to answer any questions. It was discussed that the fence issues had been addressed and the engineers had indicated that Staff comments would be resolved. Mayor Rosamonda inquired about installing decorative lighting on Mansion Boulevard. Volusia County Leisure Services Director Bill Apgar discussed that there would be lighting in the parking area; that responsibility for street lighting would be another agency; and that night use would be minimal. It was discussed that antique lighting was being installed in the City and that similar lighting could be used in the DeBary Hall area. Mr. Apgar discussed that property outside of the park area was not in their jurisdiction and that the County would have to be asked if they wished to participate in the installation of decorative streetlights along Mansion Boulevard. It was discussed it did not appear to be an obligation of the County to provide off-site lighting; that the County’s assistance could be requested; and that Traffic Engineering could be consulted.

There was discussion of the fence to be installed and the location of vegetation. Ruth Perry, Belham and Herbert Landscape Architects, 100 East Pine Street, Orlando discussed the site plan; that existing fencing would be obscured by vegetation; that 6 foot fencing was to be installed along one property line with vegetation inside of the property line; that residents had requested that a fence not be installed; and that a vegetation area would be provided in those areas. It was noted that no residents were requesting to speak on the matter.

Mayor Rosamonda entertained a motion to approve File No. 04-F-FSP-0091. Motion was made by Council Member Carson. Vice Mayor Coleman seconded. The motion carried unanimously.

The balance of Consent Agenda items were heard at this time.

Land Development Manager Palmer Panton discussed that the properties concerning File No. 04-S-OPD-0106 were listed as separate parcels on the tax rolls, but had never been reviewed by Land Development for subdivision approval; that the request was to separate 4.7 acres into two lots; that the property owner has offered to pave Highland Avenue to 15 feet north of the south line of the property; that it was not clear whether there was a platted right-of-way for Highland Avenue; and that this issue would have to be clarified before final approval. It was discussed that the zoning had been revised by administrative rezoning; that legal title would have to be proved before paving could occur; that maintenance records from Road and Bridge were unclear and aerial photos were not clear as to the legal status of Highland Avenue; and that title research concerning Highland Avenue would have to be completed prior to final approval or any commencement of work.

There was discussion that a waiver of the remainder of the subdivision review requirements may be granted; that the expense would be prohibitive for such a small subdivision; that an existing

barn located on the new proposed parcel could remain as an accessory structure if a house were built on the proposed parcel; and that a new legal survey would have to be completed for the site. There was discussion of the language regarding the legal status of Highland Avenue; that the language was included in the staff recommendation; and that the DeBary Land Development Code required review of all subdivisions. Mayor Rosamonda entertained a motion to approve File No. 04-S-OPD-0106 provided that the five provisions in the Staff report are completed. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

Discussion of File No. 04-S-FPL-0126 was resumed: City Attorney Ardaman discussed changes in the plat's dedication language; that the addition of language in the first paragraph would provide clarification; that the sentence would read "all drainage, maintenance and utility easement areas are hereby dedicated to the DeBary Plantation Community Association with an easement dedicated to the City of DeBary and public allowing for maintenance and repair upon failure of the homeowners association to maintain and repair." It was also discussed that a sentence would be added to the end of Staff Note 12 to say; "The DeBary Plantation Community Association, Inc. may not carry out any structural work on drainage easement areas without the City of DeBary's written approval" and that the obligation to maintain and repair would remain with the homeowners association contingent upon that no structural changes would be allowed without the approval of the City; and that Palmer Pantan would include similar language in future plats.

Mayor Rosamonda entertained a motion to approve File No. 04-S-FPL-0126 providing for the revision to the plat's dedication and notes. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

2. Appeal of Zoning Regulation Interpretation – Stewart Marchman Center at Spring View Business Center.

Mayor Rosamonda requested that tolerance and respect be exhibited by all speakers during the hearing of this matter; that City Attorney Ardaman would review due process as it had transpired; and that the matter was quasi-judicial. City Attorney Ardaman discussed that City Manager Diamond would review the procedures to date and that he would then discuss how a quasi-judicial hearing would take place and what effect it would have.

City Manager Diamond discussed that on December 11, 2003, a request was received from a resident for an interpretation of the City's zoning regulations as they apply to the Stewart Marchman Center at the Springview Business Center; that a provision in the City's Land Development Code stated that a formal written interpretation of a zoning matter could be requested from the City Manager, that this interpretation must be completed within ten days from the request; that the interpretation was completed and delivered on December 20, 2003; that the interpretation found that the Stewart Marchman Center' counseling use is permitted under the existing zoning pursuant to Ordinance 05-99, which is the PUD document for the Springview Business Center; and that an appeal of the written interpretation was filed to the City Council on December 29, 2003 and was now before the City Council as a Quasi-Judicial Public Hearing for Determination.

City Attorney Ardaman discussed specific rules; that public notice was properly made; that the Mayor had authority under City Code to swear speakers to tell the truth and to require witnesses to come before the City Council, if necessary; that the City Council has the right to reverse, uphold, or modify the interpretation made by the City Manager in this matter; that the quasi-judicial designation provided that the property owner or developer is entitled to notice to present their case; that those adversely affected are also entitled to notice and the opportunity to present their case; that both sides must be heard and allowed opportunity of due process; that all speakers must be allowed to present their position and evidence, whether testimony, photographic or written evidence; and that parties adversely affected or aggrieved are required to disclose any communications with any Council Members for the public record. City Attorney Ardaman also discussed that the Mayor could impose ground rules for discussion of similar topics and time limits may be imposed.

Mayor Rosamonda and City Attorney Ardaman discussed that the issue was that the interpretation of the City Manager found that the use of the property by Stewart Marchman is consistent with the existing zoning classification of the property; that comments and evidence for and against that interpretation could be presented; and that the City Council had to determine whether there was substantial and competent evidence to uphold, reverse or modify the interpretation of the City Manager. It was discussed that the term substantial and competent would generally be that which would be evident to a reasonable person.

Mayor Rosamonda opened the Public Hearing. Vice Mayor Coleman, Council Member Allen, Council Member Gunter, Council Member Carson, and Mayor Rosamonda each disclosed ex-parte communication with interested parties.

Glen Paul, with the law firm of Paul & Elkind in DeLand representing several members of the public, requested that he also be allowed to ask questions of the representative of Stewart Marchman when they presented evidence. Mr. Paul noted that he was representing the citizens of Springview, Parkview and The Reserve; that he was also a resident of Springview and felt personally affected by the matter; that he had spoken with the residents requesting the interpretation of the City Manager and had read it; that he respectfully disagreed with the assessment; that, in his opinion, the location of the Stewart Marchman Center in the Springview Business Center was a non-conforming use pursuant to Ordinance 05-99; and that the vision statement for the City of DeBary, regarding the safety of citizens, was relevant. A visual count was made of the number of citizens Mr. Paul was representing. Mr. Paul discussed the provisions of the PUD Ordinance; that the definition of Stewart Marchman as a Medical Center was not correct; that the City of DeBary's definitions relied on the Volusia County Code; that Volusia County's Code, Section 201.00 had specific definitions that he felt were applicable; that the counseling center did not appear to fit the County's definition; that, if considered as a General Office, the definition would also preclude use by Stewart Marchman; and that the zoning did not provide for a drug rehabilitation clinic.

Mr. Paul further discussed that the residents questioned why this particular location in DeBary was selected and whether the City had been approached by Stewart Marchman prior to the purchase of the property. City Manager Diamond replied that the City had not been approached

with any need and had not made a zoning determination. Mr. Paul went on to discuss that Deltona had a facility; that it was not a location that was comparable to the proposed DeBary location; that there was a health, welfare and safety concern for the near-by residents; that the Springview Business Center was centrally located to residential areas; that there would be a concern with the activities of potential clients of the Stewart Marchman Center; that the demographic for DeBary indicated that 6% of the population might have a need for such a facility; that the majority of clientele would be coming from out of the area; that if it were found that a drug rehabilitation center was appropriate, a dangerous precedent would be set and other inappropriate facilities might find their way into DeBary; that the zoning and ordinance definitions were narrower than had been interpreted; and that he would like to reserve the opportunity to readdress the Council and to question Stewart Marchman representatives.

Mayor Rosamonda requested that the public limit their remarks to three minutes and to avoid duplication if possible.

Jim Johnson, 10 Dalewood Drive, stated that he had moved to DeBary for a safe, small-town atmosphere and that he felt the area would be adversely affected by the Stewart Marchman Center.

Scott Grissom, 48 Pleasant Hill Drive, stated that he had requested the interpretation of the zoning ordinance; that he was concerned for the safety of his family; that clients required by court order to attend the Stewart Marchman Center might engage in criminal activity in DeBary; that he did not feel that it was a proper location for a drug counseling center; that it was not an appropriate use as either a medical center or a general office; and that he requested that the City Council overrule City Manager Diamond's interpretation.

Chuck McDonald, 57 Pleasant Hill Drive, discussed that at the meeting with the residents and representatives of the Stewart Marchman Center, the representatives of Stewart Marchman stated that they were not aware of any problems; that he was aware of incidents that had occurred at other Stewart Marchman Centers; that he was opposed to the Center; and that he did not feel the location was appropriate.

Jason Pickens, 361 Oak Springs Drive, discussed that the Stewart Marchman Center was not appropriate to the location; that he was concerned with criminal activities; and that it would not be safe to have this center in such proximity to surrounding residential neighborhoods.

Lee Harrington, 249 Buena Vista Street, discussed that there had been an open invitation from Stewart Marchman to visit the center in DeBary for an information session; that he had attended the session and no other residents were in attendance; that there were a number of other services available at such a center besides substance abuse treatment; and that there would be a benefit to residents within the community.

Chud Bell, 404 Oak River Drive, Port Orange, Executive Vice President of Stewart Marchman Center, addressed their selection of the property in the Springview Business Center; that Stewart Marchman is a locally-governed, non-profit organization, which has provided substance abuse

treatment in Volusia County for over 30 years; that they were looking to purchase property for out-patient services in the Four Townes area; that the site in DeBary had the site requirements they were seeking; that the adjacent residential areas did not appear to present an incompatible use based upon his experience; that the facility in Deltona had been functioning for seven years; that a permanent site was preferable; that if the zoning interpretation was upheld, they would do everything possible to collaborate with local homeowner associations and residents to maintain quality and safety; and that, after the meeting on the December 18, 2003 with local residents, the decision had been made to delay the opening of the facility to clients, even though an Occupational License had been issued, in order to demonstrate good faith and a willingness to be a good neighbor.

Mayor Rosamonda opened the floor for specific questions of Mr. Bell. It was discussed that a licensed physician would be registered at the facility; that the Department of Children and Families required a Medical Director; that the Medical Director was Douglas Davies, M.D.; that he traveled to the 11 Stewart Marchman Centers in the area; and that other physicians and nurse practitioners were contracted from the University of Florida. It was discussed that the facility was licensed by the Florida Department of Children and Families; that a licensed mental health counselor would be on staff; that a total of eight staff members would be at the facility, all which would be either licensed or certified; and that all staff members had Bachelors Degrees or higher.

It was further discussed that the safety concerns of the residents should be addressed; that security guards or law enforcement was not used at any of the other Stewart Marchman facilities; that there had been incidents at some of the in-patient detoxification units that were generally confined to the premises; that law enforcement was called in those situations; that in out-patient clinics, Mr. Bell was not aware of any injuries or burglaries by any clients of the facilities; and that an incident in Daytona Beach had involved a staff member, but did not involve a patient or client of the facility. It was asked whether the 6% demographic of DeBary residents that may require the facilities services was appropriate for the facility. It was discussed that the center would be serving the Four Townes area; that adjacent cities had a higher percentage of population demographics that may need the center's services; that the facility was regional; that the centers were not regularly associated with hospitals; and that there was a separate facility that services Seminole County.

It was discussed that most medical facilities had persons with the ability to make diagnoses; that diagnoses regarding addiction could be made at the center by a staff licensed mental health counselor, that prescription medications would not be provided at the facility; that the patients and clients would be primarily from the clientele already attending the Deltona facility and from the Volusia County area; and that the facility would be exclusively for alcohol and drug addicted persons. There was discussion that the courts could mandate persons for treatment at the facility; that in the case of a charge for possession of an illegal drug, without prior criminal history, persons may be sent to a Stewart Marchman Center to monitor rehabilitation; that the centers are funded by a variety of sources including the Florida Department of Children and Families and the State Department of Juvenile Justice contracts with Stewart Marchman, which would not be applicable to DeBary; that other funding sources are Medicare reimbursements, fee-based services and United Way contributions; that the rate of recidivism for addicts was always high; that about 55% of their out-patients completed treatment; that 9 out of 10 relapsed within the first

year which is a similar rate as the national averages; and that relapsed patients did not always come back for treatment.

It was discussed that there were other sites considered in Deltona and DeBary, but specifics were not available to Mr. Bell and that square footage, price, and the opportunity to expand were the criteria for the selection of the site in DeBary. It was further discussed that Mr. Bell felt that the zoning criteria for a medical facility were met by the Stewart Marchman Center and that their legal counsel had reviewed the zoning classification of the site prior to the purchase.

City Attorney Ardaman was asked for an opinion as to the City's Land Development Code regarding zoning uses; that there was reference to situations that might cause detriment to public health, safety or welfare, the maintenance of consistency with the characteristics of the immediate neighborhood, and whether these provisions might be applicable to the current situation. Mr. Ardaman discussed that specific uses were listed at the time that the re-zoning of the Springview Business Center occurred; that the Council could ask that the Stewart Marchman Center provide the information used to determine that the zoning classification was appropriate for their use. It was further discussed whether there were uses that might be allowed under the zoning but might be considered to be a detriment; that a property becoming a nuisance could cause the use to be discontinued; that the PUD ordinance did not specifically list counseling centers as a use; that the language in the PUD ordinance allowed interpretation as to whether the specific use fit into the categories; whether a deviation would disallow a use; that City Staff had interpreted that the use was consistent; and that the City Council had to determine whether the criteria for this facility would uphold the interpretation or not. There was further discussion of the list of descriptions of medical professionals; that the medical doctor for the center was not full-time on site staff; that there were other types of licenses that might or might not meet the criteria of that PUD usage list; and that it appeared that the majority of clients would be assigned there by the court system and not by physicians.

Mr. Paul was recalled for questions. It was discussed that there were other facilities in DeBary that might be suitable for the center and that Mr. Paul had been asked for an opinion on the Springview site only. Mr. Paul noted further that he had information that there were patients that would be attending the center who were not necessarily rehabilitated; that DeBary was not a centralized location to the Four Townes area; that the residents were strongly against the location of the facility in the Springview Business Center; and that he was not familiar with the zoning classifications in other areas. There was further discussion of Florida Statutes; that the Alcohol and Drug Services Act provided for the requirements of the Center; that City Manager Diamond had requested crime data for the area surrounding a current center; and that the Sheriff's Department had not been able to locate any specific data regarding increased crime activity.

Mr. Bell discussed that the traffic study showed that the majority of clients at the centers arrived and departed by automobile; that if the Stewart Marchman Centers were not available, the judicial system would have to provide an alternative; and that the Stewart Marchman Centers were quasi-governmental agencies due to the amount of public funds funding their services. It was discussed further that there was an issue with that function of the center; that their services

did not appear to be primarily professional or business services; and that the interpretation by the City Manager to that effect did not appear to be correct. Mr. Bell responded that the area of medicine was addictions; that addiction was a brain disease and the medical aspects were documented; that the role of Medical Director, even though not a full-time on-site staff position, was limited by Florida Statutes and Florida Administrative Code; and that it was the opinion of the center that they did provide a medical service.

Mr. Bell also discussed that he would research whether a document existed or would have one prepared by their legal counsel providing the support information for the selection of the site at Springview as being an appropriate zoning classification for the center.

City Attorney Ardaman was asked to clarify whether prevention of nuisance situations in an area was within the scope of the City Council. Mr. Ardaman opined that the approach of the City Council was whether the use would be consistent or inconsistent with the zoning. It was discussed that public health, safety and welfare were still a concern but would require an assumption in the case of this particular facility that such might occur; and that due to the high percentage of government-assigned cases, the facility did not appear to meet the criteria for use as a medical facility.

Motion was made by Council Member Gunter that the interpretation of the zoning by the City Manager be overturned. Council Member Carson seconded. City Attorney Ardaman asked for clarification that the motion was to overturn the City Manager's decision and to find that the use as described tonight did not meet the zoning. It was discussed that, in the future, uses requested during the rezoning process might be made more specific in the future; that at the time the interpretation was made, a safety concern was not necessarily evident; and that other opinions were that the facility did not provide the types of licensing to be appropriate to the zoning. It was discussed that if the City Council ruled that the facility had a non-conforming use, that the Occupational License could be rescinded and that an appeal could be made to the Circuit Court. A roll call vote was held: Council Member Allen voted against the motion. Council Member Carson voted in favor of the motion. Council Member Gunter voted in favor of the motion. Vice Mayor Coleman voted in favor of the motion. Mayor Rosamonda voted in favor of the motion. The motion carried 4-1 overturning the interpretation of the City Manager of the zoning.

It was noted, for the benefit of those residents attending, that FDOT had denied a request to reduce the speed limit along South Highway 17-92 to 40 MPH beyond the Parkview and Springview subdivisions.

IX. Old Business

1. City Manager's Goals and Objectives.

City Manager Diamond reviewed that nine goals had been selected by the City Council Members; that he had created timelines and objectives to obtain those goals for the next fiscal year; that gant charts were provided for the capital projects; and that approval of the City Council was required. It was discussed that some processes could be shortened with the scheduling of workshops; that a workshop to discuss available land for the location of city hall and public

facilities could be held later in the month; and that the Workshop would be held on Wednesday, January 21, 2004 at 7:00 PM.

Mayor Rosamonda entertained a motion to approve the City Manager's Goals and Objectives for 2003-2004. Motion was made by Council Member Allen. Council Member Gunter seconded. There was discussion that the City Manager would be providing a report on the feasibility of placing a Cultural Arts Center at Gateway Park and assisting the DeBary Art League. The motion carried unanimously.

X. New Business

1. Resolution No. 04-01 – Approving Volusia County MPO Interlocal Agreement for Reapportionment and Authorizing Execution by the Mayor.

City Attorney Ardaman read Resolution No. 04-01 by title. It was discussed that a ceremony would be held at the Volusia County MPO's offices to execute the agreement; that the Resolution was required, and the Mayor will be present at that ceremony. Motion to approve was made by Council Member Gunter. Council Member Allen seconded. The motion carried unanimously.

2. Bid No. 03-05 – Pond 2 Retrofit Improvement – The Landings at Summerhaven.

City Manager Diamond reviewed the bid process; that four bids were received between \$269,000 to \$819,000; that the lowest bid was higher than the original engineering estimates; that it could be re-bid if desired but this might open the City to additional litigation; and that the total cost of the lowest bid required correction.

It was discussed that the bidders had submitted bid bonds; that the low bidder was currently the contractor for the fence at Gateway Park; that work could be started as soon as payment and performance bonds were posted; that there was a standard one-year guarantee from completion; and that inspections would be held throughout the construction.

There was discussion whether the low bidder had experience with retention ponds; that the references provided did not show similar construction; that a Volusia County Inspector would be onsite daily; and that inspections of materials and soil preparation would be done.

Mayor Rosamonda entertained a motion to approve Barracuda Building Corporation for \$269,250 plus \$5,000 for material testing and survey benchmarks. Motion was made by Vice Mayor Coleman. Council Member Gunter seconded. There was additional discussion of the contractor's experience; that the other bidders were at substantially higher cost; that construction would be a 90-day turnaround; that liquidated damages would \$250 per day if the project was not completed on time; that payment would be made by draw as work was completed and only for materials used; and that the City reimbursed the costs of the performance and payment bond. The motion carried unanimously.

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

1. Board Committee Reports
2. Board/Committee Appointments
 - A. Historic Preservation Committee Gunter
 - B. Code Enforcement Board Alternate Gunter
 - C. Public Safety Advisory Committee Carson

Council Member Carson moved to nominate John Harvey to the Public Safety Advisory Committee. Vice Mayor Coleman seconded. The motion carried unanimously.

3. Member Reports/Communications
 - A. Mayor and Council Members

Vice Mayor Coleman discussed that state legislative funding programs were being solicited and that grant funds might be available for some projects. It was discussed that there was a gray water discharge pipe from the Deltona wastewater plant into James Pond; that the system had never been used; and that the information had just come to light.

Council Member Allen discussed the County's water lines; whether there was crossing of territories by utility lines and that DeBary Hall area was not within Florida Water's jurisdiction which is now Deltona Water. There was additional discussion that there should be franchise agreements for utility lines being run on Dirksen Drive and that it would be the County that would control those decisions.

Council Member Gunter discussed that he had attended the National League of Cities Conference in Nashville, Tennessee; that he had attended several workshops and would share information; that he had toured their storm water system and would share that information as well; and that he had attended the 10-Year Anniversary Celebration and was pleased to see the other City Council Members there.

Council Member Carson discussed that he had met with the City Manager regarding the City website; that improvements to the website should be considered; that the current system was being updated by City Staff; that information should be obtained from other city websites for marketing the City to the public; and that Council Member Carson would do some research.

Council Member Allen discussed whether there was the possibility of a joint venture with Volusia County to build a permanent stage at Gemini Springs. It was also discussed that there appeared to be public interest in an annual event by the City; that an event on a smaller scale might be feasible if it could be made self-supporting; and that more concerts could be held at Gemini Springs Park.

Council Member Carson also discussed that the City's parks needed some cosmetic improvements; that he had information on attractive permanent trash receptacles; the expenditure of funds for permanent trash receptacles and water fountains would prevent vandalism; that improvements could be made in time for the DeBary Little League season; and that information could be brought to and discussed at the Workshop.

It was discussed that the concession trailer was in the permitting process; that it should be in place by February; and that the septic tank waiver was obtained in December. It was further discussed that City Staff would get pricing for water fountains and trash receptacles; that formal sealed bids would not be required if pricing was under the \$8,000 expenditure limits; and that receptacles were estimated at \$6,000 to \$7,000.

Mayor Rosamonda discussed forming a committee for future anniversary celebrations and that the matter should be placed on the February 4, 2004 City Council meeting agenda for discussion. This will be a target date to share ideas as to how the City can hold an annual event.

It was discussed that preliminary figures could be made available at the January 21, 2004 Council meeting for the engineering costs for the erosion problem at Glen Club Drive in Glen Abbey.

- B. City Attorney
- C. City Manager

XII. Adjournment. The meeting adjourned at 10:55 PM.

**APPROVED February 4, 2004
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk