

**SPECIAL CITY COUNCIL MEETING
WEDNESDAY
FEBRUARY 11, 2004
7 PM**

Florence K. Little Town Hall
12 Colomba Road
DeBary, Florida 32713

MINUTES

I. Call To Order

II. Roll Call

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 Diamond and Assistant City Manager Maryann Courson

An update as to the litigation concerning the Stewart Marchman facility was discussed at this time. City Manager Diamond discussed recent legal actions taken by Stewart Marchman's Attorney and the City Attorney; that a hearing was scheduled for February 12, 2004 at 1:30 PM in DeLand; that the City Attorney had been contacted by the attorney for Stewart Marchman this evening; that there was not sufficient time to provide notice for a executive closed session with the City Attorney; that the City Attorney would be calling via speakerphone as he was unable to attend the meeting in person; and that additional discussion could be held at that time.

III. New Business

1. Interlocal Agreement and Funding Commitment for Conference Center.

This item was heard following Item 4.

4. City Facilities Site Selection

City Manager Diamond reviewed the consideration of potential sites for a new City Hall; that six sites had been selected by the Council for additional review; that the property owners had been contacted and the architect had reviewed the sites; and that purchase proposals had been made by some property owners.

Mayor Rosamonda disclosed ex-parte communication with interested parties.

Steve Costa, 101 Curry Rise Court, DeLand, representing DeBary Town Center, LLC as the owner of 70 acres of property on the corner of Dirksen Road and US Highway 17/92, stated that information had been provided to the City Council for a proposal to locate all or part of the City facilities within the Town Center development; that a 2.8-acre parcel was proposed for City facilities; that additional land could be made available if additional room was needed; that a portion of the property could be

dedicated for a town green area; that the proposed infrastructure investment for the entire site would exceed \$1 million; and that the site would be within the proposed Community Redevelopment Agency (CRA) boundaries and would generate revenue for the CRA.

It was discussed that there would be a large water body used for storm water retention and would be an amenity for the area; that participation of the City within the Town Center would enhance the development prospects; that the southern location would attract businesses from across the river; and that the site would become a landmark at the entrance to the City.

David Rasmussen, 107 Forest Point Lane, Longwood representing DeBary One One Seven, as landowner of a parcel under consideration; that the parcel was 24 acres; that a package containing various property configurations and the associated price had been provided to the City Council; that the 24 acres of property fronted on US Highway 17/92, Spring Vista, and Shell Road; that there were not development plans in place; that a smaller parcel could be utilized and additional parcels added if needed to form a contiguous parcel; that there was flexibility in the parcel sizes; that there was a lift station adjacent to the site; that there was adequate ingress and egress; that there could be funding mechanisms between the public and private entities; and that lease options could be available.

It was discussed that there was a small parcel owned by DeBary Development Corporation fronting on Spring Vista; that it would not be an issue in developing that area; that engineering would have to be done to determine elevations; that the power lines ran along the south property line; that there were no utility easements on the parcels; that there was no development on the parcels; that the parcels were not part of the platted Spring View development; that none of the parcels were platted; and that no offsite water retention areas were offered. It was discussed that asking prices ranged according to the amount of land area and configuration of the property and that the proposed prices would be negotiable.

There was further discussion that, if a private/public joint venture were considered, that a PUD rezoning could be pursued for the 24-acre parcel encompassing the possible City-owned area; that the owner's original intent was to hold the property until future development in the area directed highest and best use; that the boundary of the property was 24 acres; that adjacent land could add approximately 6.5 acres and was part of the platted Spring View development; and that the area could contain up to 30 acres.

There was discussion of further narrowing the selection of sites; that some parcels could be eliminated; that parcels not on US Highway 17/92 would not be preferred; that Sites 11 and 12 were too divided; that there appeared to be a consensus to eliminate those sites; that the Saxon Boulevard and US Highway 17/92 parcel was not centrally located if Law Enforcement and Fire Services were to be part of the facility; that that area would lend itself more to retail uses; that the parcel could be considered for another type of facility such as a community center; that there were multifamily residential units being planned for the Orange City side of that intersection; and that it appeared to be the consensus of the Council that the parcel should be eliminated from consideration for a City Hall site.

It was discussed that Sites 25, 26 and 30 were still under consideration; that Site 25 was represented by Mr. Rasmussen and Site 30 by Mr. Costa; that Sites 25 and 30 seemed to generate more opportunity for joint ventures; that Site 26 offered only 3.3 acres and might not be adequate; that the 2.8 acres offered

within Site 30 might not be sufficient either; and that it appeared to be the consensus of the Council that Sites 25 and 30 should be explored further by the City Manager.

There was discussion of the City Manager's schedule for this goal and objective; that the schedule had indicated that site selections and appraisals had been scheduled for February; that the project was fairly on track; that the site at Spring View might not be appropriate for public works buildings; that a separate site for those would be more appropriate; and that the Water Authority is considering the installation of a desalination facility nearby. City Manager Diamond stated that a meeting had been held with the consultants for this project; that alternate sites had been discussed; and that sites within DeBary appeared to have been eliminated. It was discussed that the process at this point would be either to instruct the City Manager to conduct appraisals and negotiate a purchase price or to meet with the City Council with the appraisals prior to negotiations; that the City Attorney would assist with negotiating purchase agreements; that joint venture proposals would be negotiated and a draft presented for City Council consideration; that the site near Spring View might lend itself to the public works facilities in that a portion of the site is adjacent to the Industrial Park; and that the site on Dirksen Road and US Highway 17/92 would not require additional property for infrastructure and parking since this is common property for the entire development.

There was discussion of the vision for the facility and surrounding area; that a town center or village area surrounding a city hall would be preferable; that Site 30 offered that idea; that the purchase negotiations would dictate part of that vision; that if a city hall was constructed, it might attract those amenities; that having the public works facilities separate was preferable and less acreage would be required; that a joint venture would be preferable for either site; and that room for growth should be considered. There was further discussion of satellite sites for public works; that a community center could work either in an on or off site location; that a city hall would foster development of small business in the area; and that the City investing in land at this time could be of great economic benefit.

It was discussed for clarification that a campus-style facility was preferred; that the current Town Hall and City Hall would become available for other functions; that a separate site for public works would probably be preferable; that the existing Fire Station was already located appropriately; that purchase negotiation results and development details should be brought back for discussion; that appraisals would be completed first; and that it would probably be available for the April Council meeting.

1. Interlocal Agreement and Funding Commitment for Conference Center

This item was heard at this time.

City Manager Diamond discussed that it was the consensus of the elected officials attending the Tri-City meeting on January 24, 2004 to support this agreement; that it was proposed that the expenditure of the remaining funds from the feasibility study agreement would reimburse DBCC consultants for preliminary engineering and architectural matters; that approval of the Interlocal Agreement and funding commitment was requested; that Deltona had committed to an expenditure of \$2 million and Orange City had committed to \$1 million; and that the proposal is that DeBary would contribute \$1 million over a three-year period.

David Bridgeman of the West Volusia Chamber of Commerce offered to discuss the project; that the Chamber and DBCC were involved actively in the project and were reviewing County-owned

properties on Veterans Memorial Parkway as a possible site for the facility; that consultants had provided concepts for three different size facilities; that the proposed site was on the east side of Veterans Memorial Parkway on 100 acres of a 140-acre site; that the largest facility proposed was 50,000 square feet at a cost of approximately \$2 million for construction; that the feasibility of the largest facility would be considered first; that once the intent of the cities involved was clear, the County Council would be approached regarding the property; that the project would be a partnership between DBCC, Volusia County, DeBary, Deltona and Orange City; and that the property would be owned by DBCC which would allow for additional funding sources. It was discussed that the partnership and the business community would fund the initial startup of the facility; that the center itself would become self-supporting through the rental of the conference center and available state funds; that the facility would be used for graduations, conferences and a business training center; that a marketing strategy would be developed; that there would be room on the property for hotels; that there was interest from hoteliers; that, with DBCC involved, the primary use would be for educational and training purposes; that a second property was also available for hotel space; and that the County's bond issue that purchased the property was expired.

A recess of the discussion of this item was called to address the Stewart Marchman issue with the City Attorney via speakerphone. City Attorney Ardaman discussed that a lawsuit had been filed by Stewart Marchman to declare the decision of the City Council to be a violation of the Americans with Disabilities Act as well as other issues; that they had requested an emergency hearing to ask for a preliminary injunction regarding the zoning of the property; and that they would seek to prevent enforcement of any Code Board actions.

City Attorney Ardaman further discussed that the matter of relocation of the facility had been discussed; that no injunction requesting the vacation of the facility had yet been filed by the City; that the City was seeking to resolve the matter to mutual satisfaction of both parties; that Stewart Marchman wished to continue to occupy and operate the property until the case was resolved; that an order agreed upon by both parties concerning injunctive actions could be crafted to allow settlement discussions and would also reduce fees and costs; that the City could choose not to pursue code enforcement action for a period of time to be specified, in order to allow settlement discussions to proceed; and that it would be the decision of the City Council to proceed in that manner or to go forward with the hearing on the motion filed by Stewart Marchman.

It was discussed that the possibility for relocation could be pursued, but Stewart Marchman had concerns that another location might not be available within the City; that there were other opinions from County officials that there were suitable locations; that locating an appropriate property would require research; and that the current location would have to be purchased by the City.

It was further discussed that areas outside of DeBary could be considered; that the City Council could make a motion to withhold Code Enforcement action; that the timeframe requested by Stewart Marchman was 120 days; that a shorter period could be considered and extended at a later time if circumstances warranted such extension; that if relocation efforts were successful, legal costs on both sides could be minimized; and that the consensus of the City Council had been to negotiate a satisfactory resolution for all parties.

There was discussion of the timeframe to be allowed for locating properties and settlement negotiations. City Attorney Ardaman discussed that, if the Council was so inclined, a motion could be adopted to direct him to craft an order in the lawsuit to provide that the City would not seek to enforce the decision of January 7, 2004 for a period of time, so long as the order is without prejudice to either parties' rights, remedies, defenses or claims; this would allow settlement discussions to occur and to allow discretion on the part of the City Attorney to protect the interests of the City. Mayor Rosamonda entertained the motion as stated by Attorney Ardaman inserting that 120 days would be appropriate for the negotiation period. Motion was made by Vice Mayor Coleman. Council Member Allen seconded. The motion carried unanimously. City Attorney Ardaman advised that he would contact the attorneys for Stewart Marchman.

There was discussion of requesting the School Board to relocate the bus stop that was adjacent to the entrance to Stewart Marchman; that City Manager Diamond could consult with City Attorney Ardaman whether that request would be appropriate; and that, if affirmative, City Manager Diamond would contact the School Board.

The discussion of the Southwest Volusia Conference Center was resumed. Mr. Bridgeman discussed that the location of the property had no restrictions at this time; that County Council Members had been consulted and the consensus was that the County Council was in favor of the project and the location. Executive Director for the West Volusia Chamber of Commerce Linda White discussed that the intent was to appear at the next meeting of the County Council to ascertain their commitment and that the hope was to have that decision finalized by June. It was discussed further that the commitment by DeBary would be contingent upon the execution of an Interlocal Agreement by all parties; that language could be included to safeguard the City dependent on levels of progress within certain time frames; that a letter of intent was being requested at this time; that a commitment to set aside the funds was also required; that if the property was not purchased, no funds would be expended; that the County was being asked for the property as well as a partnership; that another possible source of funding might be through the Tourist Development Tax system; that the County might request that the development would include trails and park area on the property; that there was no legal restrictions on the use of the property and the bond issue was expired; that the County did have commitments to the Daytona Beach facility, but that there was a clear need in Southwest Volusia; that the involvement by DBCC as an educational facility favored the development of the facility; and that the marketing package would include eco-tourism and the promotion of the St. Johns River.

There was discussion of the report from the original consultants hired; that the draft report did not find this type of facility feasible and that the report were not completed; that they had provided concepts that differed from the currently proposed facility; and that their services were no longer being used. Ms. White discussed that the firm had assumed that the facility would be supported only by public funds; that surveys of community groups had not provided data addressing regional activities; that they had not included business training purposes or participation by DBCC; that the inclusion of the Chamber participation and the proposed partnership had not been available for the reports; that a civic center had originally been proposed by that firm; that the participation by the Chamber and by DBCC had changed the dynamics; that funding would have to come from both the public and private sectors; that the support of the community would be critical to raising adequate funds; that substantial areas of the facility would be utilized by DBCC; that there would be flexible spaces to suit their needs as well as

other proposed uses; that a larger facility was under consideration in anticipation of future growth; and that it would be less costly to build now than to expend funds for additions and expansion in the future.

Deborah Bacom, Chairman for the Chamber of Commerce and Executive Director for the West Volusia Association of Realtors, offered, as an example of potential use, that the Association of Realtors now had membership exceeding 700; that currently all of their functions were being held in the eastern part of the County due to lack of adequate space in the area; and that she felt the need existed for a facility in West Volusia.

There was further discussion that a facility capacity of 5,000 would support graduations; that the facility at Stetson University was no longer adequate; that there should be additional thought to the marketing aspects for the facility; that the participation by both the private and public sectors would be critical to the success; that DBCC would have funding through the State; that the Interlocal Agreement would provide for partnerships; that funds would not be expended until those partnerships were in place; that pledges of intent were necessary to encourage participation by private businesses; that funds could be pledged by the City of DeBary contingent upon an Interlocal Agreement and partnerships with Deltona, Orange City, the County of Volusia, the Chamber of Commerce and DBCC with a properly executed Interlocal Agreement; and that funds would not be expended until all of the strategic planning and partnerships were in place.

It was further discussed that businesses and private partnerships had not yet been pursued, as commitments from the cities and Volusia County would provide the catalyst to pursue private partnerships; that the Tri-City Summit had discussed that the naming of the facility would be a marketing factor as well; that the proposed partnership was unique and the project could not move forward without the commitment of the cities and the County; that the funds would probably be held for at least 12 months; and that a firm timeline was not available at this time.

There was additional discussion of the finding of the original consultants; that the surveys did not appear to support the size of the facility proposed; that DBCC as a partner and utilizing the facility for educational purposes was not a factor considered in those reports; that the participation of the County to provide the land also changed those factors; and that DBCC had considered a facility in Deltona but wanted to pursue the possibility of the Conference Center. It was also discussed whether there was information available as to public interest in the project; that community need had been reviewed; that students were traveling into Seminole County for educational purposes and the facility would offer a local alternative; that the City of DeLand might consider joining the partnership; that Lake Helen had decided they were not financially able to participate; that it could take up to five years to complete the project; that additional economic development could occur with such a facility in place along with other development occurring in the area; and that returns on the investment could even become possible.

There was further discussion that the investment in the project would be approximately \$22 million; that \$4 million would be provided by the three cities and the balance would come primarily from the private sector along with DBCC funds and any potential investment from the County; that many large corporations contributed in other counties and Volusia County had not yet pursued those types of contributions; and that more community dollars would stay within the County through such investment.

It was discussed that the Interlocal Agreement pending approval referred to the \$30,000 that had already been allocated for a feasibility study by consultants; that those funds would be reimbursed to DBCC for those expenditures; that the commitment of the \$1 million would involve a separate Interlocal Agreement; that commitments from a hotel or other private sector business should be obtained prior to such commitment; and that a private firm would be less likely to participate unless the City showed it was willing to be part of the partnership first.

There was additional discussion that the remaining funds from the \$30,000 were requested to be allocated to DBCC; that there was concern that DBCC was not a disinterested party; that an independent firm might have been more appropriate; that DBCC had expended \$50,000 of their own funds to explore the project; that they had met the criteria for the second phase of the study for design and conceptual plans; that they were instrumental in bringing together the various participants; that there was approximately \$9,000 left of the original \$30,000 allocated by the three cities for the feasibility study; that DBCC had not requested any reimbursement; and that two separate motions were to be considered.

Mayor Rosamonda entertained a motion to allocate \$1 million over a three-year period with a 10% advance to fund preliminary engineering and architectural design pursuant to an Interlocal Agreement executed by all parties involved in the project. Motion was made by Council Member Allen. Vice Mayor Coleman seconded. There was further discussion that the Interlocal Agreement with sufficient committed parties would have to be crafted and approved before any funds would be disbursed; that the City Managers were working together as to what type of account would be set up to handle the funds for the project; that the Interlocal Agreement would stipulate the details of a budget and expenditure management; that the City would have to approve the Interlocal Agreement prior to any expenditure; and that the City Manager could be instructed as to specifics to be included in the Agreement.

Additional discussion reviewed that the original study had made contrary recommendations and had not been considered; that the parameters of the project had changed since that time; that there were other projects under consideration in the City that might better benefit from the funds; that a clear benefit for the City had not been conveyed; that the location would not be of direct benefit to DeBary; and that there might or might not be long-term returns on the investment. It was reiterated that the partnership had not been proposed until after the original study had been ordered; that the direction changed with the alteration to circumstances; that there could be indirect benefits to DeBary; and that developers might have interest in DeBary because of the proposed project.

It was also discussed that the process of drafting the Interlocal Agreement would take time; that City Council members and County Council members might change in the interim and would have different visions than the sitting members; that the viability of the project should be determined in the near future; that safety measures could be put into place within the Agreement; that some priority for use of the facility would be provided to the participants; that there was concern that smaller investors would not have the same priority as the larger investors; that it had not been determined who would provide scheduling services for the facility; that the facility would be configured to have multiple events occurring at any given time; that it would be difficult to measure and include all benefits as conditions in the Interlocal Agreement; that the opportunity would be available to include protection for citizens

and tax dollars within the Agreement; and that there would also be determination of receipt of returns or revenue sharing if those became available.

Vice Mayor Coleman withdrew his second of the motion at this time. Mayor Rosamonda seconded the motion for further discussion. It was reiterated that all details could be included in the Agreement; that it would be a difficult task to create the Agreement; and that protections had to be included.

There was discussion of operational funds; that DBCC would be providing the bulk of the funds; that any income would go to operational costs; that deficits might occur, but were difficult to determine at this time; that the quantity of funds available from DBCC could not yet be determined, but those state funds would offset deficits; that there was potential for loss to the City; and that the City Council had to consider the highest and best use of City funds. A roll call vote was held. The motion carried unanimously.

Mayor Rosamonda entertained a motion to allocate the City's remaining portion of approximately \$9,000 to the funds for consulting to be distributed to Daytona Beach Community College for their costs of consulting work, architectural design and site preparation work. Motion was made by Vice Mayor Coleman. Mayor Rosamonda seconded for discussion. It was discussed that the funds should be held until it was determined if the project would proceed; that the funds were initially approved for another consulting firm whose study was not used; and that it could be made contingent upon the Interlocal Agreement. The motion was defeated 3 to 2.

2. Approval of Purchase Agreement and Joint Participation Agreement – Gardella Property.

City Manager Diamond reviewed the Purchase Agreement and Joint Participation Agreement with Volusia County concerning the Gardella Property; that the City had met with Volusia County requesting funding assistance for the purchase of property on the St. Johns River; that four parcels totaling approximately 350 acres were selected to pursue for purchase; that a request for funds had gone before the Volusia Forever Advisory Committee and the Volusia County Council; that the request was added to the "A" priority list; that an appraisal was completed and a purchase price negotiated and accepted for the Gardella property of approximately 33 acres; that Volusia County and the City would jointly purchase the property for \$350,000; that the City and County would share closing, survey and environmental audit costs; that a Joint Participation Agreement with Volusia County specified the costs; that the property would be owned jointly; that the City would be responsible for the land management and development of the property which would also require approval by the County; and that approval of the Purchase Agreement and Joint Participation Agreement was recommended.

It was discussed how much detail of the management and development plan was required for approval by the County; that the City would provide a management plan to the County including any plans for development; that it must be passive and have a resource-oriented use; that once the plan was approved, no additional approvals would be required; that passive use included boardwalks, trails, picnic areas, fishing docks and canoe launches; that grants to reimburse the City might be available through the Florida Communities Trust Program and the Land and Water Conservation Fund; and that a waiver for an after-the-fact application to the Land and Water Conservation Fund had been requested.

It was discussed that there was a discrepancy between the Property Appraiser's information and the actual land size of 32.9 acres. Mayor Rosamonda entertained a motion to approve the Purchase Agreement and Joint Participation Agreement with Volusia County for the Gardella Property and allocate \$162,500 for the purchase price and any associated costs such as survey and environmental audits to execute the purchase of the property. Motion was made by Council Member Carson. Council Member Gunter seconded. The motion carried unanimously.

3. Resolution No. 04-03 – Objecting to Requirement of 500 feet clear View from Billboards to Install Landscaping Along State Roads.

City Manager Diamond discussed that Resolution 04-03 addressed the provision requiring permission from billboard companies to landscape in the right-of-way and that the Resolution objected to the 500-foot clear zone requirement and requested that FDOT delete the requirement under Section 14-40 of the Florida Administrative Code.

City Manager Diamond read Resolution 04-03 by title. It was discussed that the requirement had delayed Streetscape plans in the City; that the additional footage was unnecessary; and that there would be very few additional billboards allowed in the City. There was discussion of specific existing billboard sites on US Highway 17/92; that a billboard at Saxon Blvd. was not DOT permitted and was not affected; that there were specific formulas determining the 500-foot clear zones; and that there was little to be done through the Land Development Code. Mayor Rosamonda entertained a motion to approve Resolution no. 04-03. Motion was made by Council Member Carson. Council Member Allen seconded. The motion carried unanimously.

IV. Adjournment The meeting adjourned at 10:05 PM.

**APPROVED April 7, 2004
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk