

City of DeBary
REGULAR CITY COUNCIL MEETING
THURSDAY
March 4, 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, Council Member Danny Allen, Council Member Christopher Carson, and Council Member Richard Gunter.

Absent: Vice Mayor George Coleman

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

III. Public Participation For Any Issues Not On the Agenda

P.J. Van Ness, 53 Magnolia Drive, enquired about the Community Redevelopment Agency (CRA) study being conducted in the City. It was discussed that it was a mechanism for funding improvements in the City; that the study identified the proposed area as containing “Slum and Blight” but the term had a broad definition; that the term had been redefined and also indicated conditions such as undeveloped land or lack of water and sewer systems; that the designation of a CRA area would provide a mechanism to use taxes to finance improvements in an area; that it allowed City and County taxes to be retained for improvement to that area; that federal grants could become available to enhance water and sewer, underground utilities and similar improvements; that the CRA itself would not increase taxes; that Eminent Domain risks were not increased by a CRA as that power was already invested in the City; that Eminent Domain could only be used for public purposes and could not be implemented by developers; and that residential area zoning would not be changed by the CRA itself.

Ms. Van Ness enquired what areas would be included in the redevelopment plan. It was discussed that the draft study ran from Dogwood Road to Shell Road on the west and Naranja Road on the east; that the current Comprehensive Plan and zoning regulations would govern the planning of the CRA; that it was currently only a study; that once the study was completed there were additional steps prior to a vote by the City Council whether to approve the creation of a district; and that it then also had to be approved by the County. It was further discussed that

residents would have the opportunity to express their desires at public hearings; that the Finding of Necessity Study should be completed for review by the Economic Development Advisory Committee on March 18, 2004; that the Economic Development Advisory Committee could choose to recommend to the City Council whether to approve or not approve the study; that it should be ready to submit to the City Council at the April 7, 2004 meeting; that then it would probably take a year to complete a master plan, and that a CRA could still not take effect until approved by the County.

Ms. Van Ness asked about effects on business owners and whether 25 feet of property could be taken. It was discussed that the CRA would not cause business property to be taken; that confusion might be occurring with setback requirements under the Village Overlay District and Gateway Standards already passed by the City; that Gateway Standards were passed to improve the appearance of the downtown area; that the CRA could provide a way for property owners to obtain funding to improve their properties and implement Gateway Standards; that property values would increase when improvements occurred and would produce revenues for the CRA; and that beautification could be a part of the CRA including sidewalks, curbing and landscaping. It was confirmed that the next hearing on the CRA study would occur at the meeting of the Economic Development Advisory Committee on March 18, 2004.

Ms. Van Ness asked whether enhancements to street lighting could occur and that the new and old lighting were currently mixed. It was discussed that it could be part of a beautification process and that water and sewer enhancements as well as underground electrical lines for safety could be part of the benefits.

David Walstrom, 366 Sycamore Springs Street, discussed that he was elected President of a Homeowners' Association representing Springview, the Reserve at DeBary and Parkview subdivisions; that the citizens in the area were concerned with the Drug Rehabilitation Center operating in the Springview Industrial Park; that he appreciated the efforts of the City Council; that there had not yet been any negative occurrences; that there were regular law enforcement patrols through the area; that adjacent business owners had concerns; and that he wished to enquire what progress had been made by the City in regard to the facility.

It was discussed that lawsuits had been filed against the City in the matter and that City Manager Diamond and City Attorney Ardaman were working to resolve the issues. City Attorney Ardaman discussed that there were two lawsuits pending; that one had been filed, regarding the zoning decision of the City Council; that a second lawsuit had been filed relating to City and State Disability Acts; that motions to dismiss had been filed in those suits; and that efforts were underway to assist the Stewart Marchman Center in relocating to another area.

IV. Approval of Minutes

1. Regular City Council Meeting held February 4, 2004.

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

V. Presentations

1. Urban Growth Boundaries – Ron Paradise, Planner III, Volusia County.

Volusia County Planner Ron Paradise provided a presentation regarding Urban Growth Boundaries (UGB); that the urban growth boundary was a planning tool to direct urban growth within a specific area; that 11 defining factors were utilized in setting the boundaries; that not all City areas would be included; that the areas of urban development were analyzed; that there were exceptions in some areas; that the County Future Land Use Map was used for reference; that the intent was to capture those areas designated for future urban growth within the boundaries; that existing zoning was also analyzed; that subdivisions and development patterns were studied; that public lands were studied; that there was intent to keep areas intended for public preservation purposed in the non-urban side of boundaries with certain exceptions; that natural resource management areas were created to direct urban growth away from environmentally-sensitive areas; and that low-intensity, wetlands, agricultural land and areas unsuitable for development would be in the non-urban side of the boundaries.

Mr. Paradise discussed that the County had been approached by representatives of unincorporated or rural areas requesting protective measures; that they felt the pressures of unregulated growth impacting the character of their communities; that copies of maps showing protected areas could be distributed; that the entire City of DeBary was proposed to be within an urban area; that the County would integrate the urban growth boundaries into the County Comprehensive Plan; that the urban growth boundaries would be used to review annexation events and future City Land Use Map amendments; that the County would review the annexations for their consistency with the urban growth boundaries; that joint planning agreements would be made with municipalities regarding these boundaries; and that there was a possibility of an amendment to the Volusia County Charter.

Mr. Paradise discussed that the boundaries would be linked to population projections; that the County updated information to the Comprehensive Plan every six to seven years; that an inventory of vacant land within urban areas would be kept; that condition of lands within urban areas was analyzed for the ability to support population projections done by the University of Florida; that density levels were studied from high to low density; that affordable housing opportunities were analyzed; that the intent of the urban growth boundaries was not to limit affordable housing; that allocation of land resources was to protect environmental systems and rural landscapes; that more density would have to be allowed within urban areas in order to protect non-urban areas; and that the intent was to allow appropriate growth within the County.

Mr. Paradise discussed that the County Council had directed County Staff to prepare this information for the next Comprehensive Plan Amendments; that the possible Charter amendment was a method to implement the urban growth boundaries and bind the various municipalities; that legal issues would have to be studied; that a referendum would be required; that support documentation was still being compiled; that a workshop on the 04-02 Amendment Cycle would be held by the County on June 17, 2004 that would include the urban growth boundaries; that the Volusia County Land Development and Regulation Commission would hear it on July 13, 2004; that a transmittal event would occur on August 5, 2004; that the Urban Growth Boundary Initiative would be reviewed by the Volusia County Growth Management Commission and the Florida Department of Community Affairs; that County Council Adoption was scheduled for September 2004; and that all dates were tentative.

It was discussed that if the UGB were placed in the County Charter it would bind the City; that the City Comprehensive Plan would be impacted; and that higher densities did not agree with the Comprehensive Plan of the City. Mr. Paradise stated that the urban growth boundaries would not impact existing municipal areas. It was discussed further that if affordable housing diminished the County would pursue alternate remedies; that the UGB was not intended to usurp authority of the municipalities. It was further discussed that if the County Charter were amended it would only impact areas unincorporated at the time of an amendment; that there were legal questions regarding the impact on the City's own Comprehensive Plan; that authority under the Comprehensive Plan would not be usurped; and that there would only be impact if municipalities were to annex unincorporated areas.

City Attorney Ardaman requested clarification that under the proposed amendment; only areas that were annexed by the City that were subject to the UGB would be affected; that at the time of adoption of the UGB, no portion of a City would be affected since property annexed prior to that date would not be included. There was further discussion of the projections for increased density and traffic patterns in urban areas and the possibility of forced affordable housing areas and that the statements given appeared to propose those controls in order to preserve protected areas. Mr. Paradise discussed that the County proposed to preserve an additional 30% of land for urban development in excess of growth projections to act as a cushion for growth. There was additional discussion that area growth had drawn more land under municipal jurisdictions and that it was questioned that the County was attempting to protect County Government. Mr. Paradise discussed that he was not aware of that opinion.

It was also discussed that the UGB might place financial constraints upon the County; that the I-4 corridor from DeLand to Daytona Beach was not included in the UGB; that economic development would be limited in a potentially high growth area. Mr. Paradise discussed that the area was not included due to lack of exits from I-4 and large publicly-owned parcels in that area; that much of the land was underwater and would not be suitable for development; and that the land was reviewed on the eleven factors and primarily for protection of environmental resources.

It was discussed that the UGB was listed as County Goal 1A1 as a subset of Goal 1; that the County goalsetting session in 2003 had proposed the setting of boundaries; that this was the

mechanism available to set those areas; that one other method would be to set service area agreements; that joint planning agreements were possible; that the County Land Use Plan already set limits on development; and that the County did have some Interlocal agreements in place. It was questioned whether it was possible to execute Interlocal agreements rather than the UGB; that if the UGB was in the County Charter and a municipality wished to expand, whether another County Charter Amendment would be required. Mr. Paradise discussed that he did not have information to answer that.

It was enquired whether the possible annexation of property by Deltona on SR 415 was a catalyst for the UGB. Mr. Paradise answered that the UGB had been in process for over a year. It was discussed further that there could be impact to DeBary as Deltona did not have the commercial support for ad valorem tax revenue. Mr. Paradise discussed that the UGB could encourage redevelopment within urban areas rather than expansion. It was discussed that the UGB would cause property values to increase that could drive affordable housing prices out of an area; that much of the increase to current market values were driven by outside economic factors and the UGB would not necessarily be a cause.

There was further discussion of the request by the community of Enterprise for a Community Rule Protection Plan; that they had requested that the County provide rules for additional protection of their historical, neighborhood and rural character; that the east and west areas of Enterprise have differing attributes; and that east Enterprise was outside of the UGB and west Enterprise was within the boundary. It was also discussed that it appeared that the County was preventing annexation by other municipalities; that Enterprise was a special situation as requested by the residents; that the County would have to exercise caution with unincorporated areas as development could be halted altogether causing negative issues with the tax base; that DeBary might not be affected, but Deltona could be adversely impacted; that the UGB did allow for additional growth areas for Deltona as well as other municipalities; that there appeared to be a conflict with the expansion of SR 415 and restriction of growth in that area; and that Mr. Paradise was not privy to the County's land acquisition plans. It was also enquired whether the Interlocal Annexation Agreement with DeBary and Orange City could be impacted by the UGB; that it would not be impacted; and that there were Florida counties with UGBs in place.

John Peters, 219 Bunker Court, discussed that he was concerned with UGBs; that the Save Our Homes provisions limiting tax increases to residential assessments would adversely affect communities that became built out; that financial impact could be negative; that demand for density increases could occur in order to increase financial income; that the UGB did not take into account utility service areas and transportation capacity; that it was a concern to him; that the County should consider options other than the UGB; that an alternative was a method to transfer development rights that could provide funds to pay for conservation of environmentally-sensitive areas; and that the County should be working to cooperate with the cities.

It was discussed that City Manager Diamond should consult with other City Managers; that the Mayors' meetings would also certainly discuss the topic; and that there would be concerns with the ramifications of the proposal. Mr. Paradise discussed that the County was prepared to discuss

and provide information with all municipalities and that joint planning would be beneficial in any event. It was also discussed that financial impact and traffic studies should be done; that the proposed boundaries did not appear appropriate to the future of the County and that less financially stable municipalities would probably have greater concerns. Mr. Paradise discussed there were studies showing that open areas did provide financial support; that it was taken into account with the boundary proposals; that economic development had been slow within the County but the UGB was not seen as a detriment as the preservation of a particular quality of life would still be a factor to attract development.

It was discussed that information on improvements within counties already utilizing UGBs should be offered at further presentations; that in communities that had proposed UGBs, most had been approved; that the County was enhancing Growth Management protections; and that current density under existing Comprehensive Plans would still be protected.

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) - Continuation.

Volusia County Planner Scott Ashley discussed that a Certificate of Occupancy had been issued on the property; that a swimming pool had been installed; that the screen enclosure was less than 5 feet from the property line due to a curve in the property line; that the property owner was not aware of this prior to completion; that the owner had reduced the screen area as much as possible; that it did not appear to be a detriment or hazard; that the property owner had constructed a six-foot fence which obscured any view; and that it was recommended to allow the variance.

Mayor Rosamonda entertained a motion to approve Case No.D-03-009 pursuant to Staff report. Motion was made by Council Member Allen. Council Member Carson seconded. The motion carried unanimously.

2. Ordinance 01-04 – Expanding Parkview Streetlighting District – Second Reading - Continuation.

City Attorney Ardaman read Ordinance 01-04 by title. Mayor Rosamonda entertained a motion to approve Ordinance 01-04. Motion was made by Council Member Allen. Council Member Gunter seconded. The motion carried unanimously.

3. Ordinance No. 02-04 – Reducing Maximum Building Heights in the R-7 and R-8, Multi-Family and B-3 through B-7 Commercial Zoning Districts – First Reading.

City Attorney Ardaman read Ordinance No. 02-04 by title. It was discussed that Vice Mayor Coleman was not present to discuss the issue. Mayor Rosamonda entertained a motion to continue Ordinance No. 02-04 to April 7, 2004 at 7:00 PM. Motion was made by Council Member Allen. Council Member Carson seconded. The motion carried unanimously.

VII. Consent Agenda

*Agenda Items marked with * are considered routine matters or have been previously discussed by the City Council. All items will be considered by one motion unless removed from the Consent Agenda by a member of the City Council.*

- *1. Resolution No. 04-04 – Supporting the Renewal of Volusia County’s U.S. Fish and Wildlife Services Permit.
- *2. Resolution No. 04-05 – Authorizing the City Manager to Approve Aircraft Flights for Mosquito Control.

Mayor Rosamonda entertained a motion to approve the Consent Agenda. Motion was made by Council Member Gunter. Council Member Carson seconded. City Attorney Ardaman read Resolution No. 04-04 by title and Resolution No. 04-05 by title. The motion carried unanimously.

VIII. Growth Management and Development Review

1. Historic Tree Removal Application – File 04-P-TRE-0267.

Land Development Manager Palmer Panton discussed that the tree was at 192 River Village Drive and that the home could not be situated on the lot as the tree exists, without removal or significant reduction of the size of the home.

Property owner Charles Smith discussed that he wished to build a home; that there was not an alternative available; and that he planned to remove the historic tree and install more trees elsewhere on the property to meet the required number of trees.

Mayor Rosamonda entertained a motion to approve Permit Application No. 04-P-TRE-0267 pursuant to the Staff report and in cooperation with County Forester Joe Waller on replacement requirements. Motion was made by Council Member Gunter. Council Member Allen seconded. The motion carried unanimously.

IX. Old Business

1. Extension of Purchase Agreement with Progress Energy for Purchase of Community Park Property.

City Manager Diamond stated that a 90-day inspection period had been included in the Purchase Agreement for the property purchase to expand Community Park; that the City needed to exercise the option for a 30-day extension to the inspection period to complete the Scrub Jay survey and obtain an analysis by the federal government to determine whether mitigation was required; that it would also provide time to pursue an ECHO Grant to assist with the purchase; that the Scrub Jay survey procedure required that field evaluation occur on five different days and that two were completed; that the survey should be completed within one to two weeks; that the first two days had not shown extensive Scrub Jay activity other than on a small portion of the property; and that it was possible it might be a foraging area rather than a habitat area.

Mayor Rosamonda entertained a motion to authorize the City Manager to notify Progress Energy that the City required a 30-day extension of the inspection period and authorize the payment of \$25,000 to be deposited to Progress Energy. Motion was made by Council Member Gunter. Council Member Allen seconded. The motion carried unanimously.

2. Community Park Concession Trailer Handicap Access Ramp.

City Manager Diamond discussed that the building permits were received and that the concession trailer was on site; that a fire hydrant was being installed to meet the Fire Department's requirements; that it had been determined that handicapped access was needed at the service window and rear door; and that three construction proposals were provided.

Council Member Allen discussed that the height of the trailer required approximately 36 feet of ramp; that an alternative had been researched where it might be possible to provide an alternate design such as a bell to obtain personal service; that an interpretation had been required by the County; that communication with the County was not clear; that Council Member Allen had called the federal government who had stated that it was an acceptable alternative to provide a callout service for handicap persons and that the Department of Justice could be called to confirm.

It was discussed whether there would be any legal ramifications if the ramp system was not used; that suit could be filed for discrimination against handicapped persons if someone desired; that there were conflicts in the answers received from the County and State; and that a conference call could be made by staff and a written memorandum obtained. It was also discussed that the cost of the ramp would exceed the statutory limit of 1% of the cost of the structure for ADA (Americans with Disabilities Act) improvements; that the matter should be able to be resolved with appropriate communications; that the State Building Commission in Tallahassee could be contacted to request an exception if other options did not work; that additional approval was not required to complete the stairs and platform; that if the issue of the ADA requirements was resolved the construction could proceed; that the matter would be brought back if the ADA

issues required further discussion; and that the County Building Department had offered to issue a temporary Certificate of Occupancy in the interim.

X. New Business

1. Request for Funding – Veterans of Foreign War, Dedication of National World War II Monument, Washington D.C.

City Manager Diamond discussed the request from DeBary's VFW Post 8093; that they were requesting funding assistance to participate in the dedication of the National WWII Monument in Washington DC; that a total of \$10,000 was being raised; that \$4,000 had been raised to date; that the VFW helped the City by providing flags at Memorial Park, performing at various memorial ceremonies in the City and assisting with refurbishing the F-15 at Memorial Park at no cost to the City; and that staff recommended a \$1,000 donation.

Mayor Rosamonda entertained a motion to approve \$1,000 to the VFW Post 8093. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried unanimously.

2. Request for Funding – West Volusia Freedom Festival.

Mayor Rosamonda discussed the Fourth of July Festival; that it would be a two-day event with fireworks at Lake Helen and events at the Fairgrounds the following day; and that it was hoped that the event would expand from the previous year. Mayor Rosamonda entertained a motion to approve a \$2,000 donation to the Festival event as a Patriot Sponsor. Motion was made by Council Member Gunter. Mayor Rosamonda seconded the motion for discussion.

It was discussed that DeLand and Deltona had donated \$5,000 each; that Lake Helen and Orange City each had donated \$2,000 and Pierson \$1,500; that the funding levels were the same as last year; that the revenues should be greater this year and eventually the event would become self sustaining; that the event was well conducted the previous year; that State Representatives had attended; that a planning committee was meeting; and that three residents and a City Staff Member attended these meetings. 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

Council Member Gunter moved to appoint Kenneth Webster to the Historic Preservation Committee. Council Member Allen seconded. The motion carried unanimously.

- B. Code Enforcement Board Alternate Carson
- C. Code Enforcement Board (Two) Gunter

It was discussed that Rosemary Obenland was due for reappointment; that she would be contacted regarding her willingness to serve. Mayor Rosamonda entertained a motion to appoint Alan Williamson to the Code Enforcement Board. Motion was made by Council Member Gunter. Council Member Allen seconded. The motion carried unanimously.

- D. Orlandia Heights Board of Directors At-Large

Chris Bowman, 56 Sackett Drive, introduced himself to the Council stating that he had lived in Orlandia Heights for some time; that he was familiar with engineering processes; and that he felt he could assist with road issues in Orlandia Heights.

It was discussed that Clint Johnson had also made application. Mayor Rosamonda entertained a motion to appoint Christopher Bowman to the Orlandia Heights Neighborhood Improvement District. Motion was made by Council Member Allen. Council Member Carson seconded. The motion carried unanimously.

3. Member Reports/Communications

A. Mayor and Council Members

Council Member Gunter enquired if City Manager Diamond would review sidewalks that are not continuous on Interlachen Court in DeBary Golf & Country Club that could be joined together and that he asked City Attorney Ardaman to discuss Sunshine Laws. City Attorney Ardaman discussed that Council Members were free to speak with any Board or Committee Members on an individual basis; that if meeting with two or more members of a Committee, unless on a strict fact finding mission; then the meeting has to be posted as a Public Hearing and public participation would be appropriate; that if two or more City Council Members met with one or more Committee Members they could not discuss matters which might come before the Committee or the City Council; that the rules did not apply to purely social situations where matters of import were not discussed; that a Committee Member could not be used as a conduit for information; and that communication could not occur between Committee Members or City Council Members discussing matters which would be brought before those Members.

Council Member Carson also discussed the pleasing aspect of the fence at Gateway Park; that there should be consideration of a similar feature at other entrances to the City; that the decorative sign style would provide consistency throughout the City; and that the Streetscape Committee could take it under advisement. He discussed painting the arch at Gateway Park; that the arch was constructed at the original opening of the Park and was hand-wrought; that a dark grey with black lettering might be compatible; and that the architect could be consulted.

Council Member Carson enquired whether any progress had been made with the proposed construction of a stage at Gemini Springs; that Assistant City Manager Courson had met with

Bill Apgar; that there had been discussion of the purchase of a portable stage for weather and safety concerns; that research was being done on costs of a quality stage; that it could then be utilized for various other functions in the City in other areas; and that whoever participated in the purchase would have rights of use. Council Member Carson discussed that a staging company would be providing a presentation on Tuesday, March 9, 2004 at 10:00 AM at Central Winds in Winter Springs and that a staff member should attend.

Council Member Allen discussed whether the poles would be removed along the central Highway 17/92 corridor when the power was changed to the new decorative lights. City Manager Diamond discussed that the poles would still be in use due to FDOT requirements for lighting lumens. Mayor Rosamonda discussed that he had requested City Manager Diamond to look further into the matter since there were no lights along the north and south corridor of Highway 17/92; that a compromise would be sought; and that it was not certain whether it was mandated by rule or statute.

Council Member Allen also discussed that Little League was opening on Saturday; that volunteers to cook were needed; and that Mayor Rosamonda would attend.

Mayor Rosamonda discussed that the field maintenance at the Parks had improved greatly.

B. City Attorney

City Attorney Ardaman discussed the status of pending litigation.

C. City Manager

City Manager Diamond discussed that at the Volusia County Council Meeting held this morning the joint acquisition of the Gardella property was approved as part of the consent agenda; that the property purchase could now proceed to closing; and that a Management Plan had to be submitted to the County within one year regarding proposed development, management and operation.

It was discussed that a letter had been received from Florida Department of Environmental Protection determining that the construction of an Arts Center at Gateway Park would be an appropriate replacement of improvements funded by the Florida Recreation Development Assistance Program Grant; that approval from the State was required to determine consistency with the lease; and that approval was expected and may be brought before the City Council at the next City Council meeting.

It was also discussed that two City Council Members would be attending Volusia Day in Tallahassee; that legislative priority lists had been compiled from the Florida League of Cities and the Volusia League of Cities; and that any other priority issues could be provided by Council Members; that the extension of Saxon Boulevard would be a priority; and that this information was also being provided to Representative Mica. It was discussed that the Resolution regarding billboards should also be in the list.

Mayor Rosamonda also discussed that he and City Manager Diamond had met with the Volusia County representatives regarding the retention pond at Highbanks and Enterprise Road; that it was desirable to create a park area; that the pond would not be completed until 2005; that the Enterprise Road widening would probably not be completed until 2005-2006; that a Pet Park was proposed for part of the area; and that if it was a wet retention area, some modification would be needed. It was also discussed that pet parks usually required fencing; that an area inside the berm was considered that would not interfere with the retention area; and that some funding might be available from the County.

XII. Adjournment. The meeting adjourned at 9:50 PM.

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

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk