

City of DeBary
Regular City Council Meeting
Wednesday
May 5, 2004
7:00 PM
Florence K. Little Town Hall
12 Colomba Road DeBary, Florida

MINUTES

I. Call To Order

1. Invocation
2. Flag Salute

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

Vice Mayor Coleman requested that the order of the Agenda be changed to accommodate the Public; that Item 1 of New Business should be heard after the Presentations.

III. Public Participation For Any Issues Not On the Agenda

IV. Approval of Minutes

1. Regular City Council Meeting held April 7, 2004

Approval of Minutes was heard after Item 1 of New Business. Mayor Rosamonda entertained a motion to approve the minutes for April 7, 2004. Motion was made by Vice Mayor Coleman. Council Member Allen seconded. The motion carried unanimously.

V. Presentations

1. Health Start Coalition – Report on Services – Joann Main.

Mayor Rosamonda welcomed Joann Main, 32 Hidden Crest Lane, DeLand. Ms. Main presented information on the Healthy Start Coalition of Flagler and Volusia Counties founded in 1992; that the program provided services to the community for pregnant mothers, infants, children and their families; that women falling into specific income categories were provided assistance; that the infant mortality rates had decreased since the inception of the program by 16% in Florida and 17% in Volusia County; that there were 300 members of the local Coalition; that two additional programs were provided under a shared resource model; that the model maximized funds, coordinated efforts and provided accountability for expenditures; and that the overall quality of

life for infants and children, lower infant mortality rates, fewer underweight infants and reduced incidence of child abuse and neglect had resulted from the efforts of the Coalition and its programs.

Ms. Main further discussed that school readiness programs implemented in day care programs assisted children with preparation for kindergarten; that obtaining funding was crucial to the program; that state and local grants were provided in addition to matching funds raised by the Coalition; that local population increases made demands on that funding; that the services were more cost effective by nature of being preventive measures; and that it was requested that consideration be given in the upcoming budget to provide contributions to the Healthy Start Coalition.

It was further discussed that informational brochures were available; that volunteers, persons interested in contributing or provision of services could contact the office at 232 Amelia Avenue in DeLand; and that the phone number was 386-736-1629.

Public Hearing was opened for Item 1 of New Business - Consideration of Finding of Necessity Study for Establishing Community Redevelopment Agency (CRA) at this time.

Alex Ford, 145 East Rich Avenue, DeLand, Attorney representing Bob Gorman and the Citizens Against Redevelopment group; that he enquired of the consultant for GAI whether there were updated drafts of the report available and what those revisions encompassed. Doug Kelly with GAI discussed that a corrected copy with highlights to the changes made was provided to Mr. Ford at this time; that the changes were made pursuant to comments by Lonnie Groot, Attorney for the Staff of GAI; that approximately 50% of the changes were minor and the balance were substantive; and that no additional studies were done.

Mr. Ford discussed the copy that he had reviewed; that he did not feel the findings of the GAI report met the intent of the Statute; that the adoption of the Finding of Necessity would enable the City to pursue Eminent Domain proceedings; that the language of the Statute was not antiquated and had recently been revised; and that the study area did not meet the definitions of a blighted area as defined by the Statute.

It was discussed that Doug Kelly of GAI could address the items Mr. Ford questioned. City Attorney Ardaman stated that any agreement between Mr. Ford and GAI Consulting as to issues discussed in the presentation would not be binding upon the City Council; that the Council would be considering whether substantial competent evidence to meet the Statute was contained in the GAI report. Mr. Ford elected to continue his presentation.

Mr. Ford addressed topics contained in the report; that the Land Use items did not meet the definition of blight; that economic distress or endangerment of life or property, as defined in the Statute, was not shown in the report; that crime statistic analysis contained in the report did not reflect appropriate or complete information; that the issue relating to hazards of septic systems and drinking wells was not an existing problem and, therefore, did not meet the Statute criteria; that lease rate analysis did not include aggregate figures as required by the Statute; that the study did not use accurate comparisons; that the topic of street layout also did not provide sufficient

information to meet the criteria of the Statute; that information in the report for faulty lot layout did not meet the criteria of the Statute; and that unsafe and unsanitary conditions stated in the report did not address existing conditions and therefore did not meet the definition of blight.

Mr. Ford read from Statute 163.340 Subsection 8; that in his opinion, information contained in the report did not meet the statutory definition of blight; that after his presentation to the Economic Advisory Development Committee, they had voted not to recommend the report to the City Council; that the obligation of the City Council was to determine whether the statutory definition of blight had been met; that he submitted that it had not; that consideration of future financial ramifications should be made; that CRAs were appropriate for some areas where true blight had occurred; that it was the opinion of the residents that he represented that their area was not a blighted area; and that their opinion should be taken into consideration.

Motion was made by Council Member Gunter to approve the recommendation of denial by the Economic Development Advisory Committee. Council Member Allen seconded. It was discussed that the creation of a CRA had been beneficial to some other jurisdictions; that it initially appeared that a CRA would benefit the commercial area; that the inclusion of vacant and residential areas was not appropriate; that many of the arguments presented against the Finding of Necessity study appeared valid; and that it did not seem that the study provided information supporting the creation of a CRA for DeBary.

It was further discussed that this study was undertaken as a means to assist growth and improve infrastructure within the City; that there had been no instructions to include residential areas; that future infrastructure and public service needs would have to be addressed by some other means; that the potential of the CRA was a method to retain tax dollars within the City; and that the CRA could have the potential to finance capital improvements allowing appropriate development that might not otherwise occur.

It was discussed that the motion was to accept the recommendation of the Economic Development Advisory Committee to not move forward with the CRA Resolution. The motion carried 4 to 1 with Mayor Rosamonda dissenting.

It was discussed that State Representative Baker would be available tomorrow from 2:00 PM to 4:00 PM for a public meeting.

VI. Public Hearings

Members of the Council should disclose for the record the substance of any ex-parte communication that has occurred before or during the public hearings for the following items.

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

City Attorney Ardaman read Ordinance No. 02-04 by title. Motion to approve was made by Vice Mayor Coleman. Council Member Carson seconded. It was discussed that no existing buildings would be affected; that existing non-conforming structures would be vested. The motion carried unanimously.

2. Ordinance No. 03-04 – Amending the Future Land Use Map of the Comprehensive Plan for Ten Acres on Barwick Road from Industrial/Utilities to Agriculture/Rural Residential – Second Reading.

City Attorney Ardaman read Ordinance No. 03-04 by title. Mark Watts, Attorney with Cobb, Cole, 211 East Rich Avenue, DeLand appeared on behalf of Empire Cattle Company to answer any enquiries. It was discussed that the Volusia Growth Management Commission had no objection to the proposal. Mr. Watts discussed that the ten acres in question would accommodate a new business.

Gertrude DeSantis, 161 Maple Drive, discussed that she had concerns that traffic in the area might be adversely impacted; that she was concerned that inappropriate residential development might occur if the new business did not move forward. It was discussed that the maximum residential development was one unit per acre; that a site plan for the business would be presented in the near future; and that any development required site plan approval.

Volusia County Planning Manager Scott Ashley clarified that A-2 zoning on the parcel in question would only allow 1 unit per 5 acres; that the zoning would not be changed by the amendment to the Future Land Use Map of the Comprehensive Plan.

Mayor Rosamonda entertained a motion to approve Ordinance No. 03-04. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. It was discussed that the Ordinance was not ideal; that it was the only feasible short-term solution to allow the proposed development.

VII. Consent Agenda

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

- *1. Springview Industrial Park Unit 1, Lot 3 –03-F-FSP-0413 - Final Site Plan Approval.
- *2. Springview Unit 8 Subdivision – 04-S-OPD-0130 – Overall Development Plan.
- *3. Resolution No. 04-10- Opposing an Amendment to the Volusia County Charter that Would Restrict Development Control by Volusia Municipalities.
- *4. Resolution No. 04-11- Minor Amendment to DeBary Plantation (DeBary Golf and Country Club) PUD.

- *5. Resolution No. 04-12 – Minor Amendment to Crossings on Enterprise BPUD.
- *6. Bid No. 04-02 Sidewalk Program 2003/2004.

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

VIII. Growth Management and Development Review

- 1. Request to Release/Reduce Code Enforcement Lien and Demolition Lien for 133 Fern Drive.

City Manager Diamond stated that the City had borne the cost of the removal of the structure; that the fine had accumulated in excess of \$19,000; that a waiver of fine and release of lien was requested; and that Staff recommended a minimum cost of \$4,363 to reimburse the City for demolition and administrative costs.

Dolores Farris, 2203 Drake Drive, Orlando discussed that she had not been aware until recently that she retained ownership of the property or of the lien; that she had intentions of selling the property and could not proceed without removal of the lien. It was discussed that the burned out mobile home had been a long-term issue in the community prior to the demolition by the City; that residents in the area had been affected; and that an additional lien amount over Staff's recommendation should be collected.

Ms. Farris discussed that she had no financial means to demolish the structure subsequent to the fire.

Gertrude DeSantis, 161 Maple Drive, discussed that volunteers from the neighborhood have and continue to do the grounds maintenance work for the property; that the owner had received reimbursement from insurance; and that the City had borne the cost of removal.

It was discussed that the owner would realize a profit from the sale of the property; that the purpose of a Code Enforcement action was to resolve the violation issue. Motion was made by Council Member Allen to reduce the amount by 50%: that enforcement of liens increased their effectiveness; that 50% of the fine amount would be \$9,800; that if the property might be better maintained if sold; and that the property could be foreclosed upon by the City. City Attorney Ardaman advised that a time limit could be set to pay a reduced amount and, if unpaid, would revert to the full amount plus accrued interest. It was discussed that amounts might be due to the homeowners association; that the details would have to be determined.

Council Member Allen restated his motion to reduce the lien to \$9,800 if paid within 90 days and, if not paid within 90 days of the current date, to foreclose for the full amount of the lien plus accruing interest. Council Member Gunter seconded. It was discussed that the value of the property should be determined; that the property could be resold to recoup any costs of foreclosure and demolition; and that Code Enforcement fines/liens that have been imposed

It was discussed that the Streetscape plans approved to this date are in the process of implementation; that the purpose of the Committee was to propose streetscape improvements for consideration by the City Council; that an ordinance could be created for discussion at the next regular Council meeting; and that it could be made effective beginning October 1, 2004 to coincide with the fiscal year budget. It was further discussed that seven members should be considered for the composition of the Committee; that there could be five members appointed and two at-large.

Vice Mayor Coleman discussed that Representative Baker would be at City Hall on May 6th; that he had attended the VCOG meeting on April 26th; the Public Safety Committee meeting on May 3rd and that he had attended the Water Authority of Volusia (WAV) meeting. It was discussed at the WAV meeting that there could be increased membership costs in the future to support planning and staff; that any proposals would be brought to the City for approval; and that the City would wish to see financial statements for the WAV Committee when that came for consideration.

Council Member Allen discussed an item to be heard at the upcoming County Council meeting that would be related to the Urban Growth Boundaries (UGB) proposal; that the City Manager had a copy of the agenda item available and that there should be meetings with the affected cities to discuss the matter. It was discussed that a UGB existed in Collier County and that examples of the effect of the adoption of UGBs are needed for study. City Manager Diamond discussed that the County Council Agenda item was a proposed alternative to a referendum for a Charter Amendment concerning the adoption UGBs; that joint City-County planning agreements might be considered as an alternative; that a template for such an agreement would be under discussion; and that unincorporated areas did exist north of the City. There was discussion that the UGB proposal caused concerns with financial impact to local governments.

Council Member Allen discussed that consideration should be given to purchase of vacant property for future public works use; that there was little appropriate land left and should be considered in the very near future.

Vice Mayor Coleman also noted that the Historical Preservation Advisory Board was progressing with their research and that they would be looking for space for equipment and display.

Mayor Rosamonda discussed that on May 28th, David Rigsby would be presenting botanical information at DeBary Hall from 7:00 p.m. to 9:30 p.m. There was discussion that recent functions at DeBary Hall were attracting the public. It was discussed that the permits had been obtained from FDOT for the median beautification; that a mandatory pre-bid for the project will be held on May 20; that bids will be opened on June 17 and award of the bid will be on the July City Council agenda; that the bid would include the U.S. Highway 17-92 corridor improvements and the Gateway Park landscaping; that the design had been amended to accommodate billboards on DOT rights of way as protected by Statute; that one company had objected and some trees had to be removed; and that DOT had raised their funding commitment to \$200,000.

It was discussed that a workshop would be held on May 19, 2004 to discuss zoning and fence and sign ordinances.

- B. City Attorney
- C. City Manager

XII. Adjournment: The meeting adjourned at 11:15 PM.

**APPROVED June 2, 2004
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk