

**CITY OF DeBARY
SPECIAL CITY COUNCIL MEETING**

Wednesday

July 21, 2004

7:00 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

III. Business

1. Discussion of Overlay Districts, Gateway Standards, and Sign Regulations.

It was discussed that there were conflicts between portions of the zoning ordinances; that a unified criteria would allow clearer direction for development; that the City Planner could assist in the revisions of the zoning ordinances; that the sign ordinances and definitions has been discussed by the Council; that requiring only monument signs was an issue with the U.S. Highway 17-92 businesses; that application for the sign improvement grant program should be encouraged; that consistency of sign requirements in agricultural zoning classifications and for churches was desired; that clarity of definitions was desired; and that elimination of conflicts in the zoning ordinances was desired.

It was further discussed that there was concern that the agricultural zoning classification did not permit signs; that provision for signage in the agricultural zoning classification was needed; that a provision similar to that for churches could be added; and that the sign ordinance should provide provisions for properties without sufficient highway frontage area for monument signs. Volusia County Planner Scott Ashley discussed that the Village Center Overlay zoning classification allowed for application for a Special Exception for pole signs and that copy area standards and height were specified. That the original intent was to have predominantly monument signs in the downtown corridor.

It was discussed that signs be permitted in the agricultural zoning classification, consistency for sign standards for churches, and clarity of definitions were desired changes; and that the zoning ordinances requirements should be consistent throughout.

Beverly McCain, 61 South U.S. Highway 17-92, discussed that exceptions and variances should not be required as frequently if the proposed changes are adopted; that the configuration of her property did not allow for a monument sign; and questioned whether the ordinance would be changed to eliminate the amortization period to comply with the sign ordinance.

It was discussed that an additional three years had been added to the amortization period for compliance and that the provision that the City Manager would determine what signs could remain had been eliminated. Mrs. McCain discussed that she had received recent estimates of \$15,000 to replace the sign at her business and that the City's sign improvement grant would not be of sufficient financial assistance. It was further discussed that Special Exceptions could be granted by the City Council; that the current sign ordinance was passed in 1999 to provide consistency; and that Ms. McCain could apply for a Special Exception after the three-year amortization. There was also discussion that the provision for the determination by the City Manager of a sign condition and whether the sign may remain after the amortization period had been eliminated from the ordinance but a provision for the information to be presented to the City Council is needed.

Danny Tillis, 91 South U.S. Highway 17-92, stated that he requests that signs not be restricted to one style; that signs in good condition should remain; that the expense to many businesses would be a hardship; that more than one type of sign style should be allowed; and that consistent criteria should be provided and requirements for Special Exceptions should be reduced.

There was discussion that direction should be given to City Staff to address specific matters; that some business owners had felt the need to retain an attorney to represent their interests in the matter; that relief for owners with legal non-conforming signs should be considered; that, currently, there was not a grandfather clause in the ordinance; that the extension of the amortization period had been to allow time to address the issue; that businesses should not be hurt by the desire for a consistent aesthetic appearance of the City; that the grant amount might not be sufficient to motivate business owners to comply.

It was also discussed that there were many issues that might arise for Special Exceptions; that additional transition options were needed; that a balance of interests needed to be reached; that the expense of the grant program to the City needed to be considered; that improvement to the appearance of the City was desirable while minimizing negative impact to citizens and businesses; and that a grandfather clause for signs in good condition with an appropriate entity to determine condition and specific criteria could be added.

It was discussed with Volusia County Planner Scott Ashley what provisions were customarily made with reference to sign ordinances and amortization; that, if the amortization period were eliminated, a sign could remain until determined to be structurally unsound; that it had been previously suggested that inspection criteria by an authorized entity was appropriate; that the type of sign would indicate the length of time it would remain viable; and that opinion was subjective.

It was discussed that City Staff would compile recommendations including various types of signs that might be allowable; that provisions for signs in agricultural zoning classifications and

specific provisions for church properties be included for consideration by Council; that definitions be included and clarified; that the issue of grand fathering permitted signs until replacement or change of ownership or construction should be included; that the Village Overlay District was where the greater restriction of sign types occurred; that greater consistency without regard to district was more desirable; that setbacks provided for line of sight issues on U.S. Highway 17-92; that height restrictions would not be appropriate for some properties; and that some Special Exceptions would still be needed.

Doug Holly, 9 Colomba Road, stated that business owners would welcome the effectiveness of a new sign ordinance where appropriate; and that a cooperative effort with the City should be made to address the financial issues.

It was discussed that the Grant program had been approved with matching funds up to \$2,500; that staff was gathering information on average sign costs; that a 50/50 match might be more appropriate to assist business owners; and that the total cost to the City had to be considered. There was further discussion that consistency might become an issue if inappropriate restrictions were imposed; that the areas outside the Village Overlay District were less restrictive; that there would be more leniencies in the downtown corridor if the less restrictive requirements were applied; and that a single sign ordinance should apply City wide.

Scott Ashley discussed that the Ordinances were already consistent; that the Village Overlay District had restrictions but did allow for Special Exceptions for pole signs; that there were specific requirements for each sign type; that the north and south areas were consistent in requirements; that provisions for Special Exceptions for the areas outside the Village Center Overlay could be added; that monument signs allowed more copy area than a pole signs; and that additional copy area should be allowed for pole signs. It was clarified that the provision should allow areas outside the Village Overlay District to have pole signs up to 15 feet with additional copy area.

Tom Schaeffer, 798 South U.S. Highway 17-92, enquired whether billboard signs were to be moved or changed. It was discussed that the Florida Legislature had exempted billboard companies from local sign ordinances and that the number of allowable billboards was limited. Mr. Schaeffer discussed that the Village Overlay District and the Gateway Corridor Standards required review and that Orange City's standards had been used as a model for the DeBary Gateway Standards. Mr. Schaeffer also discussed that there was a level of frustration with development issues under the various ordinances. It was discussed that the amortizations had been extended to allow time for review and revision of those ordinances as needed.

The Village Overlay District was discussed; that there were issues with the restrictions to types of businesses that were excluded at the time of the original ordinance; that restriction of some types of business was desirable; and that the impact to existing business had to be considered. It was discussed that Gateway Corridor Standards were imposing more restrictions and inhibiting development.

Doug Holly, 9 Colomba Road, discussed Ordinance 23-02; that downtown DeBary was already developed; that it did not lend itself to a pedestrian retail area; the requirement regarding two-

story facades at 26 feet was not consistent with existing structures; that exterior maintenance would be an issue; that fence, setbacks, buffer and wall requirements were excessive; that the intent of architectural restrictions was not clear; that location and design of parking should be addressed; and that many commercial lots in DeBary were not appropriate to have rear parking and that this prevented development.

Mr. Holly further discussed that market demand should direct development of business types; that existing businesses met current needs for goods and services; that he disagreed with restrictions to types of businesses; that he would like to retain the provision allowing expansion of commercial areas by consolidating properties; and that he did not agree with the requirement for a Special Exception. It was discussed that the regulations did allow for combining commercial and residential properties under certain criteria.

John Wanamaker, 102 James Pond Court, discussed the Village Overlay District and Gateway Corridor Standards; that there was no building permits issued for commercial development in DeBary due to restrictions; that property values had decreased; and that reevaluation was needed.

Kathy Hadden, 83 U.S. Highway 17-92, discussed the issue of non-conforming businesses; that she was concerned with the future of her business; that she suggested a Special Exception to allow current businesses to remain in perpetuity; and that she enquired what areas in DeBary were affected.

It was discussed that the Village Overlay District was the B-4 zoning classification uses but that the district had further use restricts; that more uses were permitted in other areas; that there were provisions in the Village Overlay District for special exceptions; that language could be crafted to address the issue of rebuilding a non-conforming use if the structure were destroyed by fire; that the designation of non-conforming was to allow the current business to remain as long as expansion did not occur; and that it would revert to the requirement for conformity if it was use was expanded or changed in the future. Ms. Hadden also stated her preference that the sale of a business would not invoke a change to a different use.

Kim C. Booker, 2582 South Volusia Avenue, Orange City discussed that she had been unable to sell property that she owned in DeBary due to development restrictions; that she had elected to pursue development in Orange City; that she asked for reconsideration of height restrictions; that she agreed with the concept in principle, but that the U.S. Highway 17-92 corridor was not appropriate to pedestrian development; and that the concept might be appropriate in other areas.

It was discussed that two of the major issues in the Gateway Corridor Standards appeared to be the setback requirements and the two-story facades; that the cost of building two-story structures on DeBary lots was prohibitive to many businesses; that City Manager Diamond would draft changes to rear parking and two-story façade requirements; that the provisions for the neo-classical architectural styles would need to be changed; that specific architectural styles would no longer be required; and that rights-of-way for access to rear parking was an issue with lot sizes in DeBary.

It was further discussed that landscape and buffer requirements in the South U.S. 17-92 Overlay and in the Gateway Standards should be reviewed and that it should be consistent throughout with the 20-foot requirement.

Beverly McCain, 61 South U.S. Highway 17-92, reviewed previous discussions of the requirement that the majority of uses in the Village Overlay District be office or retail; that those requirements should also be reviewed; that she also was concerned with restrictions to expansion of businesses; and that she felt there were additional portions of the sign regulations that should be eliminated. It was noted that the amortization schedule for signs was to be removed.

There was specific discussion of the Village Overlay District; that there were provisions in the Comprehensive Plan and in the Village Overlay Standards that only office uses were permitted until a redevelopment study for the U.S. Highway 17-92 corridor was complete; that some exceptions had been allowed in certain areas; that a textual amendment would have to be made to the Comprehensive Plan; that such an amendment could only be done twice a year under State Law; and that review of zoning ordinance restrictions should also be a priority.

It was further discussed that a 600-foot frontage was required in the South U.S. Highway 17-92 Overlay District; that more intensive uses were allowed but had other restrictions; that lists of non-conforming uses in the Village Overlay District should be reviewed; that changes to the Village Overlay District could change non-conforming uses to conforming uses which would allow for expansion and rebuilding and sale of current businesses; that modification of the non-conforming use list could protect existing businesses in the downtown corridor; and that size and use restrictions on some types of businesses were still needed to prevent inappropriate development.

Morton Culligan, 66 Tanglewood Road, enquired what Council Members were present when Gateway Corridor Standards and the Village Overlay District were approved; that some Council Members were serving when Gateway Corridor Standards were approved; that the Village Overlay District was part of the Comprehensive Plan, which was created shortly after incorporation; and that the Comprehensive Plan had been created with the assistance of a consultant planner.

Mr. Culligan discussed that the plans required modification and that he did not feel that extensions of amortizations were appropriate solutions. It was discussed that the amortization extensions were implemented to provide additional time to review and revise the issues that had arisen and that the purpose of the workshops was to obtain input to make appropriate decisions.

Direction for City Staff was clarified; that modifications to the Village Overlay District would address alleviating restrictions to existing businesses; that a list of businesses and development not appropriate to the downtown area would be compiled for further review; that some matters discussed were size restrictions to nightclubs and additional definitions prohibiting big-box retail; that the restriction to pest exterminators should be removed; that some types of large retail operations might be desirable; that size restrictions could be in place with the option to apply for a Special Exception; that large vehicle or automotive concerns should have restrictions; and that adjustments to allow specific types of outside storage provisions was needed.

The South U.S. Highway 17-92 Overlay District was discussed; that at issue was the 600-foot frontage requirement; that the restriction could prevent some properties from being sold; that there were uses requiring Special Exceptions; that the area was included in the Comprehensive Plan as mixed use; and that retail development was restricted. Scott Ashley discussed further that the Comprehensive Plan required Special Exceptions for some development; that there were PUD requirements in the southeast mixed-use areas; and that the 600-foot minimum could be eliminated as the PUD process would address that issue.

Discussion continued regarding use restrictions and Special Exceptions; that certain standards still needed to apply; Special Exceptions for the South Highway 17-92 Overlay could be eliminated and addressed in the PUD process; that language should be revised that prohibited certain uses; that the Special Exception process did not necessarily prevent certain uses; that a PUD would be a negotiated process where some uses could be prevented; that large retail developments might not be desirable for DeBary; that Staff would address the issue of restrictions to that type of development; that it was requested by Staff to allow changes consistent with intent and eliminate contradictory issues; and that more consistency was needed between the various districts and standards.

2. Resolution No. 04-16 – Adopting Preliminary Millage Rate for the Levy of Ad Valorem Taxes for FY 2003-2004 and Setting a First Budget Hearing Date.

City Manager Diamond read Resolution No. 04-16 by title. It was discussed that the millage rate for the current year was 2.50746; that the Property Appraiser provided information that the taxable value for the City of DeBary was \$1.2 billion; that market values had increased; that the rollback rate was at 2.42979, and if the current year millage was adopted it would be advertised that there was a 2.4% increase over the roll-back rate; that, once set, it was unlikely that the millage rate for the coming fiscal year would be changed; and that previous discussion had directed that the current rate would be retained.

It was noted that Budget discussions would be held at the August 11, 2004 meeting; that there was a time limit to notify the State of the maximum millage rate; and that there would be opportunity during the Budget workshops to reduce the rate if so desired. It was discussed that a brief budget discussion should be held; that there were concerns with funding sources for scheduled capital improvement projects; that it was anticipated to utilize grants and financing over the five-year period; that there would be interest charges if financing was used; that anticipated Parks and Recreation costs might be higher than anticipated; and that waste removal would be included under a new contract which was up for bid.

There was discussion that construction would be started on Community Park in Spring or Summer 2005; that there was a provision in the bid that the funding was dependent on City Council approval; that the overall concern was that the funding would be available for the Capital Improvement projects; that a number of projects were already underway and had reduced the carryover amounts; that to retain reserve levels, it was anticipated that financing would be required; that a down payment would reduce the interest costs; that some projects might have to be put off to future years for additional funding; that there would be additional discussions at

workshops; that projects could be phased in; and that the funds available to future City Councils had to be considered.

Mayor Rosamonda entertained a motion to approve Resolution No. 04-16 setting the preliminary ad-valorem tax rate for 2004-2005 at the current rate of 2.50746. Motion was made by Vice Mayor Coleman. Council Member Allen seconded. The Mayor announced that the first Public Hearing for the 2004-2005 Budget would be held September 1, 2004 and the second Public Hearing would be on or about September 15, 2004. The motion carried unanimously.

3. Consideration of Federal Lobbying Services

Motion was made by Vice Mayor Coleman that the matter not be discussed. The motion carried without objection.

4. City Facilities Site Selection

Council Member Gunter disclosed ex-parte communication with interested parties. City Manager Diamond reviewed the process undertaken by the City Council to date and stated that proposals, cost comparisons, acreage comparisons and appraisals were available.

John Lewis, 143 Delespine Drive, discussed a handout that he had prepared for the City Council; that there was not sufficient information available to the public in a timely fashion; that it was a difficult process in obtaining information from City Hall; and that there was a time lag in posting minutes from Council and other Committee meetings on the website.

It was discussed that the minutes were approved on a monthly basis; that if errors or corrections were required, the minutes could not be posted until review and approved by the City Council. Mr. Lewis suggested that agendas could be more descriptive and that other background information should be available on agenda matters.

Norm Erikson, 15 Azalea Drive, read a letter on behalf of Susan Tidball; that she was not in agreement with a new location for City Hall; that she did not agree with the site location under consideration at Dirksen Drive and U.S. Highway 17-92; and that she felt that tax dollars should be spent on other improvements.

Eugene Stump, 106 Birkwood Court, discussed the proposed City Hall location; that he had reviewed costs of the property on Dirksen Drive and Highway 17-92 and that there had been a proposal made in the past by Community Bank that he would like to see renewed. Mr. Stump discussed the availability of properties adjacent to the current City Hall location; that he felt a more central location was appropriate; that it would save the cost of infrastructure on another property; and that he did not wish to see future liability to the City.

Morton Culligan, 66 Tanglewood Drive, enquired whether a vote was taken regarding a new City Hall. It was discussed that approval had been given to perform a space needs study and that prospective properties had been reviewed and voted on by the City Council to reduce the selection to two specific properties. Mr. Culligan enquired further if the final site selection

would occur at this time. It was discussed that, if a site were selected, that the City Manager would be authorized to negotiate a purchase agreement for consideration by the City Council.

Tara Wagner, 197 Siesta Drive, enquired specifically which sites were under consideration. It was discussed that the sites were 2.8 acres on the property located near the intersection of Dirksen Drive and South U.S. Highway 17-92; that the second site was near the Springview development; that the site where the DeBary Motel is currently had been considered along with several other parcels on Colomba Road and Naranja Road; and that the City Council had not selected that option. Ms. Wagner discussed that she was concerned that residential properties might have been impacted.

There was discussion that remaining in the current area of Town Hall had been removed from consideration; that County of Volusia property might now be available totaling approximately 2.2 acres; that County Council Member Long had discussed the possibility with County staff; that the consideration of a building with a smaller footprint might make such a project more feasible; that the Volusia County Fire Services was performing studies for a new Fire Station; and there was also the possibility that the Fire Station property might also become available.

There was further discussion that County Council Member Long could assist the City in the matter; that citizens had expressed a desire to have City Hall near the Town Hall current location; that Sites 11 and 12 should be brought back for consideration; and that the site could possible total 3.69 acres including the Fire Station. There was also discussion that the County appeared to have reconsidered past plans to retain the property; that none of the residential properties would be adversely impacted; that the architect could review the property again; that it was not certain if the current Town Hall would remain; that the conceptual plans had included removing the Town Hall to accommodate the City Hall and Law Enforcement facility as a two-story structure, but without an amphitheater area.

It was discussed further that the process had been ongoing for a lengthy time; that the other site under consideration would have amenities and storm water facilities; that the consensus of the City Council was to postpone further discussion to review the options on the additional site; and that Council Member Gunter could pursue further discussion with the County to discuss at the August 4, 2004 meeting.

There was discussion of the 30 acres on the south side of the City on Fort Florida Road that was under consideration as a possible park; that City Manager Diamond could be authorized to negotiate with the property owner for a purchase agreement; and that the site could also be considered for other purposes for the City.

Mayor Rosamonda entertained a motion to authorize City Manager Diamond to negotiate a purchase agreement for 30 acres on Fort Florida Road and to bring it back for City Council approval. Motion was made by Council Member Gunter. Council Member Allen seconded. The motion carried unanimously.

Council Member Gunter discussed that Volusia Days would be coming up; that the County would be requesting support; that \$1,000 had been contributed the previous year; and that the item be added to the next City Council Agenda for consideration.

It was discussed that the evening meetings had been productive and well attended by the public and that there was a Grand Re-Opening at 10:00 AM, Saturday July 24, 2004 for Volusia County's Lake Monroe Park.

City Manager Diamond noted that August 11, 2004 was scheduled for a Budget Workshop; that a Tri-City Summit Meeting was scheduled on August 7, 2004 to consider the Inter-local Agreement for the Multi-Purpose Center; and that a meeting with the School Board was scheduled for September 29, 2004.

IV. Adjournment The meeting adjourned at 10:50 PM.

**APPROVED September 20, 2004
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk