

City of DeBary
Regular City Council Meeting
Wednesday
August 4, 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

Members Present: Mayor Carmen Rosamonda, Vice Mayor George Coleman, Council Member Christopher Carson, and Council Member Richard Gunter

Absent: Council Member Danny Allen

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

Neil Coppens, 19 Rosedown Blvd, discussed DeBary 50+ crowd of senior volunteers; that meetings began in February 2004; that he wished to thank DeBary Parks and Recreation Administrator Anthony Gonzalez for his assistance; that an Ice Cream Social at the DeBary Civic Center was attended by over 100 people; that he also wished to thank the DeBary Civic Association and Sharon Pertler for providing the location and assistance; that another Social was being held on August 16, 2004; that meetings were held regularly on Mondays from 12 p.m. to 3 p.m.; and that the public could contact Mr. Gonzalez for additional information. Mayor Rosamonda thanked the group for the activities provided to the seniors in DeBary.

John Likakis, 38 Seminole Drive, discussed watering times in the City's newsletter given as evening hours only and clarification should be made. It was discussed that watering times were allowed 5 a.m. to 9 a.m. and 5 p.m. to 9 p.m. on designated days; that the Newsletter would be corrected. Mr. Likakis also requested information regarding Item 2 under Growth Management and Development Review on the June 7, 2004 Agenda referring to the Village at DeBary; that more information should have been provided. It was discussed that the Final Site plan was reviewed for a commercial development known as Village at DeBary on Enterprise Road.

Mr. Likakis enquired whether approval had been given for the purchase of the Oglesby property in joint participation with the County. It was discussed that at the meeting of June 2, 2004 it had been

approved with the addition of specific language added to the purchase and sales agreement regarding the joint agreement by the County of Volusia and the City of DeBary.

IV. Approval of Minutes

1. Special City Council Meeting held June 16, 2004.
2. Special City Council Meeting held June 23, 2004.
3. Regular City Council Meeting held July 7, 2004.

It was discussed that a revision was required for the July 7, 2004 minutes on page 5, item 4; that the vote was 3 to 1 and was not unanimous; that on page 15, 2B that an additional appointment of Mr. John Lewis was made at that time.

Motion to approve Minutes as revised was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

V. Presentations

1. Smart Growth Initiative – Marilyn Crotty, Director, Florida Institute of Government, University of Central Florida.

Marilyn Crotty, Director, Florida Institute of Government at the University of Central Florida discussed the Smart Growth Initiative; that meetings were held to define the principals of Smart Growth in Volusia; that the final report was available on the County of Volusia's website; that participants wished to encourage implementation of ideas contained in the report; and that a collaborative effort was being pursued between government and business to provide tools to deal with the pressures of growth within communities.

Ms. Crotty discussed further that an Implementation Committee of 19 was being formed which would include four representatives from the County, four Mayors appointed by VCOG, additional seats from the Council on Aging, the Farm Bureau, the League of Women Voters, the School Board, the United Way, Home Builders, the VCARD group, the Chamber of Commerce Alliance and the Environmental Council of Volusia and Flagler Counties and an additional appointment was expected from the PTA Council; and that the Committee would create a work plan and establish workgroups involving professors and graduate students to identify successful techniques used in other areas and determine if they would be applicable in Volusia County.

Ms. Crotty further discussed that there was no mandate to local governments to participate; that it was understood that each community would not have individual needs; that DeBary could select what was appropriate to the City and might be accomplished through cooperative efforts with other entities; that a financial contribution was requested from each City; that the budget was approximately \$93,000 with the County contributing one-third, one-third from local government, cities and the School Board, and the balance from the private sector; and that a suggested amount from each City was in the \$4,000 to \$6,000 range. Staff and interested residents were encouraged to participate in formulating recommendations.

It was discussed that there were four County and four Mayoral representatives; that the County appointments were citizens; that the Mayors were from Ormond Beach, Orange City, Daytona Beach Shores and Edgewater; that the other citizen appointees were from civic groups; and that VCOG had solicited volunteers for the Mayors' positions. It was also discussed what relation there might be to the upcoming Volusia County Comprehensive Plan Amendment regarding Urban Growth Boundaries. Ms. Crotty discussed that Urban Growth Boundaries was one tool used in Smart Growth but the current efforts by Volusia County were not part of the initiative; that details of the Urban Growth Boundaries were not complete and, if passed, the Smart Growth Initiative could be involved in making the boundaries more beneficial and productive; and that Smart Growth dealt with many other aspects of development including transportation, mixed use and re-development.

It was also discussed that the proposed budget of \$93,125 was to pay for the University services which would be a faculty member, graduate students to facilitate the process and duplication costs; that there would also be various administrative costs and costs for facilitation services from the Institute of Government and the Florida Conflict Resolution Consortium; that there were contributions from the private sector; that the project would start within the next month; that it was anticipated to begin providing recommendations early in 2005; and that the recommendations would be policies, procedures and ordinances that could be used by both the County and the City. It was discussed that Staff recommended approval, and that this would be promote a more cooperative effort between the County and the Cities.

There was some discussion that there would be studies made where Urban Growth Boundaries had been successfully implemented; that there were concerns with growth issues throughout the State; and that it could be beneficial to pursue cooperative efforts in growth planning.

Item 2 of New Business, Resolution No. 04-17, was heard at this time. City Attorney Ardaman read Resolution No. 04-17 by title. Mayor Rosamonda entertained a motion to approve Resolution No. 04-17 authorizing \$4,000 to the University of Central Florida for this particular project. Motion was made by Council Member Gunter. Vice Mayor Coleman seconded. The motion carried unanimously.

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. 10-04 – Exempting the City of DeBary from the Provisions of Section 101.657 F.S. Relating to Early Voting –Second and Final Reading.

City Attorney Ardaman read Ordinance No. 10-04 by title. City Attorney Ardaman commented that it did not appear certain that the Resolution was required to be adopted by the City; that his reading of the Statute indicated that the Supervisor of Elections was required to provide an early voting opportunity; and that he was not certain that the Resolution would have any effect. It was discussed that passing the Resolution would do no harm and that it would exempt the City if the requirement existed.

Mayor Rosamonda entertained a motion to approve Resolution No. 10-04. Motion was made by Council Member Gunter. Council Member Carson seconded. There was additional discussion of the Statute and the interpretation by the City Attorney; that there appeared to be language in the Statute that prevented the City from exempting itself; that the purpose of the County Supervisor of Elections appeared to be to prevent having to place a location in the City; and that the main venue would be in DeLand. The motion carried unanimously.

2. Ordinance No. 11-04 – Creating a Streetscape Advisory Committee – Second and Final Reading.

City Attorney Ardaman read Ordinance No. 11-04 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 11-04. It was discussed that the provision in the Ordinance for missing meetings should not be defined as consecutive; that it had been previously discussed that the Committee should make a determination of excused absences; that stringent regulations could deter citizens from participating; and that the City Council still retained the option to terminate an appointment for cause. Mayor Rosamonda entertained a motion to approve Ordinance No. 11-04. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carries unanimously.

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. Overall Development Plan – Joseph Subdivision – File 04-S-ODP-0200.
- *2. Final Site Plan – Springview Industrial Park, Unit 1, Lot 11 – File 04-FSP-0494.
- *3. Final Site Plan – Springview Industrial Park, Unit 1, Lot 24 – File 04-F-FSP-0474.
- *4. Second Partial Replat – Riviera Bella, Unit 1 – File 04-S-FPL-0787.

Mayor Rosamonda reviewed the items on the Consent Agenda. Vice Mayor Coleman requested that Item No. 1 be removed for discussion. Mayor Rosamonda entertained a motion to approve the Consent Agenda as revised. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried unanimously.

The location of the Joseph Subdivision was discussed; that there were serious traffic issues in the area; that there did not appear to be an access to Palm Road but an access was under consideration; that the property had environmental and drainage issues; that matters would have to be addressed prior to approval of any plat; that a traffic light was needed at the intersection and there were no turn lanes into the proposed project from Dirksen Drive; and that adjustments to the County Road were not reflected on the Overall Development Plan. Volusia County Land Development Manger Palmer Panton discussed that full site plans would provide details for the three sites; that the two access areas appeared to be in the best locations and the south side and west side were in existing rights of way; and that site plans would be submitted for the three separate sites proposed.

Mayor Rosamonda entertained a motion to approve File 04-S-ODP-0200. Motion was made by Council Member Carson. Council Member Gunter seconded. The motion carried unanimously.

VIII. Growth Management and Development Review

1. Ordinance No. 15-04 – Amending the Gateway Corridor Standards by Deleting Requirements in the Village Center and South U.S. Highway 17-92 Overlay District – First Reading.

City Attorney Ardaman read Ordinance No. 15-04 by title. Mayor Rosamonda closed Public Hearing without objection and opened the Land Planning Agency hearing for the City of DeBary. It was noted that the Ordinance had been read; that there would probably be additional ordinances adjusting the zoning ordinances brought to the Council; that, as discussed at the Special Meeting, specific requirements of the Gateway Corridor Standards in the Village Overlay District and the South U.S. Highway 17-92 Overlay were removed; and that the Gateway Corridor Standards would be uniform throughout the U.S. Highway 17-92 corridor.

Doug Holly, 9 Columba Road, discussed that his site plan was approved under the previous ordinance; that if setbacks changed, a complete revision of the site plan would have to occur; that Mr. Holly requested to retain current site plan approval but to add language to modify the requirement for a two-story façade. It was discussed that Mr. Holly could re-apply under the new ordinance or retain the approved site plan and apply for a variance for the front setback; that criteria would have to be met regarding the characteristics of the property to qualify for a variance; that the cost was several hundred dollars; and that to meet the 35' setback would cause undue financial hardship due to the cost of redesigning the site and obtaining new permits.

City Attorney Ardaman discussed whether relief could be provided in this instance due to the changes to the ordinance; that the project was already approved prior to the change; that the changes requested were combining parts of both ordinances; that to provide a variance without cause might allow future variances to be challenged; that the criteria for a variance might be met if the changes to the ordinance were causing a loss of a useful part of the business; that the characteristics of the property dictated whether a variance was allowable; and that the variance had to be brought to the City Council to determine if the criteria were met.

Mr. Holly enquired further whether he could apply under the new ordinance for an exception to the architectural standards. It was discussed that the changes to the ordinance were not final until the second reading; that Mr. Holly could request a revised site plan eliminating the two-story façade prior to the second reading; that a new site plan would have to be provided; that Mr. Holly would provide a new drawing with the same layout of the property and changes only to the elevation; and that the second reading could be tabled if Mr. Holly was unable to present the changes at the next meeting.

Mayor Rosamonda entertained a motion to recommend approval of Ordinance No. 15-04 to the City Council. Motion was made by Council Member Carson. Council Member Gunter seconded. The motion carried unanimously.

The Land Planning Agency closed without objection and Public Hearing was reopened. City Attorney Ardaman read Ordinance No. 15-04 by title. Mayor Rosamonda discussed that approval was recommended and entertained a motion to approve Ordinance No. 15-04. Motion was made by Council Member Carson. Council Member Gunter seconded. It was further discussed that this was a first step in making development requirements more consistent in the City. The motion carried unanimously.

IX. Old Business

1. None.

X. New Business

1. Sublease with DeBary Art League for Use of 4.9 Acres at Gateway Park.

City Manager Diamond reviewed that he had been directed to prepare a sublease agreement; that City Attorney Ardaman had met with the Attorney representing the DeBary Art League; that the proposed terms were for 4.9 acres for a term until 2045, coinciding with the City's lease; that the lease would automatically extend if renewed by the State; that the Art League would pay one-half of the total rent amount currently paid to the State of Florida; that they would be required to amend the management plan submitted to the State, maintain insurance as required and provide a hold harmless agreement to the City and State; that the City would have the occasional use of the facility at no charge; and that the existing exercise trail would be reconfigured and restroom facilities would be made available to the public.

It was discussed what the obligations of the City would be to the State if the DeBary Art League did not complete the project. City Attorney Ardaman discussed that legal avenues would be followed; that if any defaults were not cured, the sublease would be terminated; that it was in question what would happen to any improvements that had been made; that the DeBary Art League was required to comply with the prime lease; that improvements had to be approved by the City prior to construction; and that the City would not be in breach of its obligations in the event of a default by the DeBary Art League.

It was also discussed that the City would not have financial protection to complete improvements; that a letter of credit or other financial guarantee could be provided by the DeBary Art League that the improvements will be completed; that this would increase the League's costs; that language could be added that the City could require a letter of credit, bond or other mechanism to guarantee payment for improvements; that there was not a time frame established for the construction or completion of improvements; that a time frame could be added but would not guarantee payment; that paragraph 6 contained language regarding placement and removal of improvements; and that a sentence could be added to allow imposition of a guarantee by bond or similar instrument or to require proof of the financial ability of the DeBary Art League to complete or remove improvements.

Mayor Rosamonda entertained a motion to approve the Sublease Agreement between the City of DeBary and the DeBary Art League, Inc. contingent upon a sentence to be added regarding financial justification to assure that DeBary Art League, Inc. can financially support the project

once approved, as determined by the City Attorney Ardaman and the Attorney representing DeBary Art League. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried 3-1 with Vice Mayor Coleman dissenting.

2. Resolution No. 04-17 – Supporting the Smart Growth Initiative in Volusia County.

This item was heard after presentations.

3. Bid No. 04-04 – Residential Solid Waste and Recycling Collection Services.

City Manager Diamond discussed that information was provided regarding the City's bid, a bid from Volusia County and the invitation to join Deltona in a joint bid for services; that term options for three, five and seven years and with and without tote carts, were provided; and that the low bid was Florida Recycling Services received from the joint bid with Deltona for seven years at \$9.60 per household per month without tote cart.

Council Member Gunter, Vice Mayor Coleman and Mayor Rosamonda disclosed ex-parte communication with interested parties. It was discussed that other bids were significantly higher.

Mayor Rosamonda entertained a motion to approve the Florida Recycling Services contract. It was discussed whether there were performance clauses to protect the City. City Manager Diamond discussed that, if the bid was approved, a contract agreement would be drafted to include all appropriate terms and provisions. It was discussed that authority could be given to the City Manager to execute the contract and that there were various provisions to enforce levels of performance and to allow the City to withdraw for cause.

Mayor Rosamonda entertained a motion to approve the contract with Florida Recycling Services for seven years at \$9.60 per month per residential household jointly with the City of Deltona and to authorize the City Manager and City Attorney to execute a contract based upon the particular bid. Motion was made by Council Member Gunter. Vice Mayor Coleman seconded. The motion carried unanimously.

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

1. Board/Committee Reports
2. Board/Committee Appointments
 - A. Board: Code Enforcement Board Alternate Member C. Carson

Council Member Carson requested appointment of Joe Canfield to the Code Enforcement Board. It was discussed that Mr. Canfield also served on the Economic Development Advisory Committee; that he would be an Alternate Member of Code Enforcement; and that he had the time to devote to the City.

Mayor Rosamonda entertained a motion to appoint Joe Canfield as Alternate Member of the Code Enforcement Board. Motion was made by Council Member Carson. Council Member Gunter seconded. The motion carried unanimously.

3. Member Reports/Communications

A. Mayor and Council Members

Vice Mayor Coleman discussed that he had attended the groundbreaking on July 8, 2004 at DeBary Hall; that he had attended meetings of the DeBary Public Safety Advisory Board, DeBary Historic Preservation Advisory Board; seniors social at the Civic Center, Quail Lake Homeowners Association and the Code Enforcement Board; that a Hearing Officer in lieu of a Code Enforcement Board might be considered for the City; that an attorney was already attending Code Enforcement Board meetings; that matters could be heard before the attorney; that he had also attended the Tri-City Summit along with others of the City Council; and that the County had re-opened Lake Monroe Park, the City held a Grand Re-Opening for Bill Keller Park, and that the events were well attended.

Council Member Gunter discussed the Volusia County property adjacent to Town Hall; that he had attended the County Council Meeting where the matter was discussed; that Council Member Long had broached the matter and the County Council had directed Staff to begin working on means to allow the City of DeBary to obtain the property; and that, without objection, Council Member Gunter would continue his efforts in the matter. He also discussed attending the dedication at DeBary Hall and at Monroe Park; that he had attended the National Night Out event at Town Hall; that the County did not wish to participate in the purchase of a mobile stage; and that the City might choose to participate in construction of a permanent stage at Gemini Springs.

Council Member Carson discussed the matter of the stage further; that a permanent structure was still a possibility; that such an improvement to Gemini Springs would benefit DeBary; and that a joint agreement might be structured with the County allowing use by DeBary for certain City events each year. It was discussed that a stage would enhance the marketing of the Park and increase attendance; that the DeBary location of the Park should be promoted to market the City; that the Park was underused; that the County should be approached with proposals for a joint agreement for a contribution to stage construction; that County Council Member Long could assist with the matter; that it would enhance the City events to have the locale; and that Council Member Carson would move ahead.

Council Member Carson also discussed the re-opening of Bill Keller Park; that the attendance was gratifying and the park was well tended; that further conditioning and improvements would be made; and that parks contributed to overall promotion of the DeBary lifestyle.

Vice Mayor Coleman discussed that he had just received a copy of a news article regarding meetings being broadcast on radio in Ormond Beach and that this was something the City of DeBary could look into to provide to its residents. It appeared to be the consensus of the City Council that the City Manager would obtain information.

Mayor Rosamonda discussed that he was very pleased with the efforts at Bill Keller Park and that he also enquired of City Manager Diamond the status on the median landscaping. It was discussed that the pre-construction meeting would be held on Monday, August 9, 2004; that construction would begin shortly thereafter; and that the agreement with DOT for additional funding had to be brought back before the City Council.

- B. City Attorney
- C. City Manager

City Manager Diamond reviewed upcoming meetings: Tri-City Summit on August 7, 2004, City Council Budget Workshop on August 11, 2004, the regular City Council Meeting on September 1, 2004; that the first Budget Public Hearing was on September 7, 2004; and the second on September 21, 2004. It was also discussed that a meeting with the School Board would be held on September 29, 2004.

XII. Adjournment The meeting adjourned at 10:15 PM.

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

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk