

City of DeBary
SPECIAL CITY COUNCIL MEETING
Monday
September 20, 2004
7 PM
Florence K. Little Town Hall
12 Colomba Road DeBary, Florida 32713

MINUTES

I. Call To Order

Mayor Rosamonda reminded those wishing to speak to complete a card and that there would be a time limit of three minutes in order to accommodate all those wishing to participate.

1. Invocation
2. Flag Salute

II. Roll Call

Members 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

III. Public Participation For Any Issues Not On the Agenda

Proclamations were read prior to Public Participation.

Mayor Rosamonda introduced David Hamstra with Professional Engineering Consultants (PEC). Mr. Hamstra stated that he had made every effort to review the methods being used to handle the drainage and pumping issues currently faced by the City. Mr. Hamstra discussed the overview of the City lakes system; that the current system interconnected 19 of the 29 lakes; that connection points run from Kings Lake down U.S. Highway 17-92 to East Highbanks and east to Enterprise, discharging into the I-4 branch system; that pumps served one or more lakes moving 1 to 2 inches per day as long as additional rain did not occur; and that the system was a basin system and gravity fed and was affected by the accumulation of runoff and groundwater into the lakes.

Mr. Hamstra further discussed that 32 inches of rainfall had been received since August 1st to date; that recent storm events had raised levels in the aquifer; that an Emergency Authorization request had been made to the FDOT and the SJWMD to allow exceeding the currently-permitted flow rates; that the State and District would typically allow this; that documentation was still required; that areas would be listed and categorized by levels of urgency; that financial burdens would be incurred; that expediting interconnection of remaining lakes and obtaining permits to move additional water would be difficult and expensive; and that the City would have to determine the final course.

It was discussed whether assistance from FEMA might be available; that assistance through the Flood Hazard Mitigation Grant Program could be applied for; that there would be competition for those funds; and that the St. Johns River Water Management District had some lesser amounts of grant funds available. It was also discussed that the number of pumps that could be added was limited as pipes could be overburdened; that larger or additional pipes could be added; and that the original pipe installations were done at different times with various consultants. It was further discussed that the permitting threshold out to I-4 was already high; that some could bypass directly to the St. Johns River; and that another alternative was to move water to some dry areas through negotiation by the City.

It was discussed that a Master Stormwater Plan was underway by PEC; that the firm would probably revise the process due to recent storm events; that engineers had studied moving water on the west side in 1996; that there were several easement issues over pipes and discharge points over private properties; that areas of the City were experiencing flooding that had not had issues in the past. One-hundred year storm event levels were discussed; that rainfall totals to date were three times higher than average; that systems designed to accommodate the 100-year storm event criteria of 10-11 inch rainfall within a 24-hour period had not had time to recover between storms; that homes built in newer areas were also experiencing flooding and some were not at required 18" above road levels; that some areas were platted prior to implementation of regulations and drainage; and that retention was insufficient in many areas. There was discussion to review regulations and variances that had been granted.

Mayor Rosamonda thanked Marlee Grein for her work with Safe City and helping with phone calls. Ms. Grein thanked the City Staff and Council Members for their hard work as well.

John Wilson, 114 Pine Valley Court, inquired about engineering information contained in a letter received. It was discussed that building was stopped in Saxon Woods Phase III subdivision; that improper building procedures had been followed causing runoff to affect Pine Valley Court and other areas. Mr. Wilson also inquired when the requirement for the 18 vertical inches above road was implemented. It was discussed that it was enacted prior to construction of Saxon Woods. Mr. Wilson also inquired whether requirements had been enforced. It was discussed that the homes might be constructed properly but runoff from the area was at issue; that Volusia County Growth Management was contracted by the City for enforcement of that building issue; that the County stormwater engineer could choose to issue variances for the 18" above road requirement; that drainage plans to show that flooding would not occur were still required to be submitted to obtain such variance; and that the matter should be reviewed with Growth Management.

It was discussed that DeBary had adopted the Volusia County Growth regulations for review and granting of technical variances; that the method and process would be reviewed with the County; that drainage issues at Saxon Woods were caused by other circumstances; and that the City would pursue any appropriate litigation and financial issues with the Saxon Woods developer.

Hurley Robbins, 108 Pine Valley Court, discussed that he had expressed concern several years before regarding Saxon Woods and drainage issues; that a swale had been added that did not appear to be adequate for drainage; that he felt the retention ponds at Saxon Woods were causing

drainage into his yard and a permanent solution was needed; and that mosquitos and displacement of wildlife also were an issue. It was discussed that spraying for mosquitos had been done and that Mosquito Control was planning on aerial spraying.

Mayor Rosamonda discussed that he had walked the area with the engineering consultant and he was very aware of the flooding issues in the neighborhood; that the matter was being addressed; and that the runoff was affecting a number of homes in the Pine Valley cul-de-sac. It was further discussed that the County was responsible for the aerial mosquito spraying and that County Council Member Long could be contacted to assist in resolving the pilot issue.

Mark and Connie McCandless, 225 Inglenook Drive, discussed the retention pond overflowing across from their home; that Leland Management had advised that a pipe was broken and would be repaired; that it had been determined there was no discharge pipe to that pond; that he inquired how the County issued approval without the connector pipe; and that he wished advice on how the problem could be resolved.

It was discussed that the retention pond and easement were dedicated to the City and that the City would have to pursue a permanent solution to the problem. Mr. McCandless inquired whether a pump would be supplied. It was discussed that engineering plans should be on file and a pipe could be installed and the developer pursued for costs after the fact; that a pump would be maintained in the meantime; that the water levels would have to be reduced in order to install piping; and that the City would complete the pipe as soon as feasible at an estimated cost of \$25,000 to \$50,000.

Keith Branham, 34 Wisteria Drive, discussed significant flooding issues; that lake levels were over his sea wall and had caused septic issues; that there was a pump on Jasmine Drive that did not appear to be running; and that he inquired what immediate solutions were being offered.

It was discussed that the pump at Jasmine had been running prior to Hurricane Frances and that Lake Susan was now too high to allow for any additional pumping at this time. Mr. Branham discussed that requests had been made in May and June to have the lake pumped down in anticipation of summer rains and that the feeling was prevalent in the neighbor that insufficient attention had been paid to their requests. It was discussed that the lake levels had been pumped down in prior months; that the City would pursue avenues to get the levels down to allow additional pumping; that long-term solutions were being pursued; and that increases to the permits to allow additional pumping would help in the short term.

Robert Kern, 60 Park Lane, discussed that the road in his area was flooded and not draining; that no activity had occurred in his area; that he could not live in his home; and he inquired what was occurring to resolve this issue. It was discussed that the City had planned to remove more water via transport trucks as had been done from Monroe and Catalina; that it was forced to stop due to an issue with the retention pond accepting the water; that it was difficult to resolve as ground water continued to drain to the same areas even after pumping; and that the older areas did not have the infrastructure to allow appropriate drainage. It was further discussed that mosquito control would continue and that odors were caused due to both sewage and rotting vegetation.

Tom Martin, 470 Eagle Brook Court, discussed that his problems had been ongoing since May 2003; that development to the rear of his property was three feet higher and caused runoff into his area; that he not observed activity to resolve the issue in the area; that Mr. Martin had an engineering report completed; and that there was runoff back into his property from the newer development. It was discussed that the matter might need to be pursued with the developer by Mr. Martin. Mr. Martin objected that approvals were given for the development either by the City or County. It was discussed that Mr. Hamstra would view the property and provide information on the matter.

It was discussed that a swale had been created to try to alleviate the problem; that it had been determined that a pipe could not be run from the swale to the catch basin; that it was Florida law that natural surface flow of water could not be interrupted; and that Mr. Hamstra could determine if such interruption had occurred.

Bill Lane, 406 Glen Abbey Lane, inquired whether the City might assist with wholesale costs for tree replacement and that sod between the streets and sidewalks was killed by water and debris. It was discussed that the City would look into the matter.

Joe Canfield, 13 Hibiscus Drive, inquired what the City could do regarding price gouging. It was discussed that Florida Statutes addressed the issue and could be reported to the Sheriff's Office. Mr. Canfield inquired whether a business license could be revoked for such activity. It was discussed that all occupational licenses were issued by the County and that it was not certain what remedies were allowable. It was discussed that reported issues were referred to the State Attorney's Office.

Mr. Canfield also inquired if power plant retention ponds could be used by the City. It was discussed that there were issues with water levels in Lake Konomac and clean water issues; that the City would inquire into that possibility; that water was also already being drained into their intakes; that the possibility of utilizing the western stormwater system was being researched. Mr. Canfield thanked everyone who worked with and helped their neighbors and the community.

Zach Fuller, 110 Pine Valley Court, thanked the Mayor and Council for coming out to view his area; that he was a professional engineer; that Saxon Woods had been an ongoing issue for some time; that rain events prior to the development had not caused flooding issues; and that lots in a rear cul-de-sac infringed on the 30-foot buffer and were draining into his area. It was discussed that drainage should be into Saxon Woods retention ponds and that screens were blocking outlets and allowing drainage into a swale not designed to handle that excess. It was discussed that the lots were back sloping instead of forward and that the matter was under review by the City Council.

Mr. Fuller also discussed concerns with vegetation that had been replaced in the buffer; that excess water would kill the vegetation and he would like the matter addressed; and he also inquired what the time frame would be for action to occur. It was discussed that the City would perform expeditiously.

Eugene Stump, 106 Birkwood Court, discussed the retention area on Highbanks being used for construction storage for the I-4 project and he inquired why the retention area had not been created sooner. It was discussed that the fill had been used for part of the I-4 construction. Mr. Stump also inquired why Highbanks had not been dammed sooner. It was discussed that lawsuits had occurred when damming had been done in the past. Mr. Stump discussed that a permanent solution should be installed to prevent recurring issues.

It was discussed that the majority of funds for Streetscape were coming from FDOT and not from City funds; that storm water drains and pumping systems were being installed; and that some pumping had been done into the Highbanks retention area until it became too full.

Garry Berner, 24 Madera Drive, discussed erosion on East Highbanks Road threatening his neighborhood; that the dirt berm that had been constructed would wash out; that flooding there was destroying his home and others; that septic systems, runoff and debris were polluting the area; and he inquired when some relief might be available.

Mayor Rosamonda discussed expenditures to create new stormwater systems since incorporation and that additional infrastructure would be installed as quickly as feasible. Mr. Berner inquired why larger pumps could not be utilized and why more were not available. It was discussed that the current issues were unforeseen and the City would increase efforts to build infrastructure. It was also inquired of Mr. Hamstra whether a larger pump could be placed to help pull the water through the system to reduce system pressure. Mr. Hamstra discussed that he would have to investigate the capacity of the lines and would look into that possibility.

It was further discussed that washout in the road was a hazard and that the current barricade was not sufficient; that a concrete barrier should be placed there; and that there was some reduction of water in the area but erosion was still occurring.

Alice Beaulieu, 22 Madera Road, discussed her concerns with the flooding, road erosion and apparent backwash from drains and stated that she wished to see a permanent resolution to the problem.

Scott Lamming, 34 Madera Road, inquired whether the original drain system had ever been completed; that he was concerned with washout and he would like to know who would be responsible for the cleanup of aftereffects from the storm; that he was concerned that law enforcement personnel were not adequately informed of conditions; that pumps should have been in place prior to the storm season; that water being pumped from other areas was running into his area; that he was concerned that the berm would not hold; and that his house was already severely damaged.

It was discussed that many concerns expressed were being addressed as quickly as possible. City Attorney Ardaman discussed whether an ordinance could be created to make illegal pumping a criminal offense; that pumping and permitting was governed by water management districts but that a stricter ordinance might be put in place within the City; and that he would research the matter and provide information to the City Council. It was discussed that the Sheriff's Office had been asked to investigate any criminal violations that might apply to illegal pumping and cutting

of retention ponds; and that some criminal penalties might apply if a permit was violated under the St. Johns River Water Management District.

It was further discussed that additional lines and pumps might be run down Highbanks to pump more water into other areas; that No-Name Lake was being pumped into Turtle Lake to run down to Lake Charles; that it might be possible to pump into Bonita or Bass Lake which also ran to Lake Charles; that Mr. Hamstra would meet in the morning to discuss obtaining more pumps and hoses; that caution had been used in pumping into the several lakes in order to avoid flooding other areas; that various alternatives had been explored; and that additional engineers should be consulted, if necessary, to select an area to pump into immediately.

William Hillier, 25 Monroe Avenue, thanked the Mayor and Council Members for their attempts to assist him with the flooding of his home and stated that he was concerned that water would not recede from his home for many months. It was discussed that Volusia County Environmental Department and the Volusia County Health Department had been consulted on moving water that might have septic contamination; that the Health Department had responded that it was possible to pump but that the retention area on Shell Road was not usable; and that pumping would have to be continuous to keep up with groundwater seepage. Mr. Hillier discussed that he only wished to keep water out of his house and that the groundwater was not causing levels as high as prior to pumping.

It was discussed that there were several areas of septic issues from flooding; that primarily the issue was finding a location to move the water; areas near Spring Vista would have to be watched for sinkhole activity; that some roads would have to be closed to accommodate hose lines; that Mr. Hamstra would address that issue as well at the morning meeting; that the sinkhole that had already opened near Spring Vista would be monitored for several days by the Geotechnical Engineer until stabilized who then would determine how to repair and fill; that pumping would have to be directed away from homes and buildings; that 6" pumps would be used; and that Mr. Hamstra would have to determine permit issues as to whether water could be pumped from below street level.

Trudy Watson thanked those who helped with pumping; that she had flooding around her home as well as septic issues and that she felt that it was important to continue pumping. It was discussed that the City had just received approval to resume pumping after stoppage was ordered due to possible contamination issues. Ms. Watson inquired whether there would be 24-hour pumping done in her area. It was discussed that the City was working to deal with lack of drainage and retention areas in that neighborhood; that the engineer and City staff would meet in the morning to determine an area to pump into and arrange for additional pumps and hoses; that intervention might be required to obtain permission where private ponds and retention areas might be used; and that there might be liability issues.

City Attorney Ardaman discussed that he did not see a legal defense if the City was challenged, however, if no damage occurred there should be limited recourse; that owners of private ponds should be contacted to obtain permission; that any others could be used on an emergency basis and any issues dealt with after the fact. City Attorney Ardaman further discussed that permitting of deepwater injection wells was no longer done but wished to inquire if Mr. Hamstra knew of

existing wells that might be used. Mr. Hamstra discussed that it might be possible to activate abandoned wells but did not know of any currently in the City and that maps had already been checked.

City Manager Diamond discussed that the property owner where the sinkhole occurred had been advised that the City would repair any damage that might occur to the retention pond and that the owner had granted permission. It was further discussed that it would take time to install all of the pumps and hoses and the public should be aware that pumping would not start for several days and that the process to install would be started immediately. It was also discussed that a private pump had been used at one lake; that a rental pump was now being used; and that the County should be contacted for laborers to help install equipment or other laborers hired if necessary.

Mayor Rosamonda discussed that City Council and staff would continue to work on long-term solutions and would use whatever resources necessary to resolve immediate issues. It was also discussed that evacuations had been announced late in the storms' approach and all Council Members and City staff had assisted wherever possible; that County Council Member Long had assisted with obtaining resources for the City; that Council Members were having many of the same issues as the citizens and empathized with them; and that overall resources were strained as so many areas were affected.

It was also discussed to hire temporary staff to assist administrative activities; that the City Manager was authorized to spend funds in emergency circumstances and then report to the City Council; that the Mayor and the City Manager had authority to call special meetings; and that it was the consensus of the City Council that any required expenditures be made to resolve issues including the services of PEC and additional engineers if necessary. It was discussed that Council Members could request the City Manager to call a special meeting if needed.

IV. Approval of Minutes

1. Special City Council Meeting held July 21, 2004.
2. Regular City Council Meeting held August 4, 2004.

A motion to approve the Minutes was made and seconded. The motion carried unanimously.

V. Presentations

Proclamations were read prior to Public Participation.

1. Proclamation "Girls Softball Champions"

Mayor Rosamonda announced that DeBary Little League, Big League Girl's Softball had won the District, State and Southeast United States Championships leading to participation in the World Series Big League Girls Softball Fast Pitch. Mayor Rosamonda introduced the team by name; that they were to be congratulated on their success; that the Little League taught sportsmanship, fair play and teamwork and encouraged character development for the future;

that Mayor Rosamonda, on behalf of the City of DeBary Proclaimed October 1, 2004 as South Region Big League Girls Softball Champs Day in the City of DeBary and recognized and congratulated the team members and coaches for their performance.

2. Proclamation "Youth Soccer Month"

Mayor Rosamonda read the proclamation that; that the sport promoted physical fitness, sportsmanship and family and the ideals of the President's Council on Fitness and Sports. September was proclaimed Youth Soccer Month in the City of DeBary and did hereby consent with the Presidential Proclamation.

3. Annual Audit Fiscal Year Ending September 30, 2003.

Alex Kish and Carey Wright, on behalf of Brent, Milliken and Company, discussed the Annual Audit for the City; that the new provisions for governmental accounting standards had been implemented with revisions made to the Financial Statements; that the audit report contained a management discussion and analysis document which included an overview of financial information for the City; that the statement of net assets provided aggregate information on a single page; that total assets including fixed assets was \$10,324,000.00; that the increase was approximately \$1.5 million from the prior year; that liabilities totaled approximately \$1.5 million, an increase from \$250,000 from the prior year due to payments made after year end; that net assets totaled \$8.8 million for an increase from \$8.3 million the prior year; that the increase was funded with current period dollars and did not rely on surplus funds; and that surplus funds had been retained allowing the City a better position to face disaster-related costs than many other cities.

It was further discussed that the statement of activities showed total government activity expenses of \$6,730,000.00 including depreciation and interest expenses; that it was offset by \$1.6 million in program revenues; that the amount shown as a loss represented the tax dollars needed for services; that a net increase was reflected of \$500,000 which was less than prior years. Other details and notes of the report were discussed; that the General Funds Operating Budget showed more revenue than anticipated and expenses had been reduced; that it was a positive outcome for the City; that the overall fiscal position of the City was stable; that the City had no unnecessary long-term debt obligations; that graphs were provided for recap purposes; that Unreserved Fund equity had increased over the past five years to provide over 11 months or 90% in reserve funds; that the City of DeBary had maintained one of the lowest millage rates; and that taxable assessed values had increased to \$831 million in the City.

It was discussed that suggestions to staff had been made regarding division of accounting duties; that current staffing did not permit those divisions; that the City was exempt from new procedures regarding monitoring for fraud; and that the comment provided in the report was standard in all reports. It was further discussed that the firm had assisted in the transition from County to in-house financial services in the prior year; that no additional funds were found to be owing from the County; and that the firm did the accounting for a number of government entities. Motion was made by Council Member Carson to accept the audit report. Council Member Allen seconded. The motion carried unanimously.

Mr. Kish offered the services of the firm with any issues that might arise with storm recovery.

Mayor Rosamonda also announced that there would be car washes held on September 25th and October 16, 2004 to raise funds for abandoned and lost animals from the recent hurricanes.

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. 15-04 – Amending the Gateway Corridor Standards by Deleting Requirements in the Village Center and South U.S. Highway 17-92 Overlay District – Second and Final Reading.

City Attorney Ardaman read Ordinance No. 15-04 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 15-04. Motion was made by Vice Mayor Coleman. Council Member Allen seconded.

Rose Holly, speaking on behalf of Doug Holly, 9 Colomba Road, discussed that there were unresolved issues with their proposed car wash development; and that they requested that the Second Reading of Ordinance No. 15-04 be tabled for 30 days to allow time for presentation of a new site plan. It was discussed that the City Council had previously agreed to work with Mr. Holly regarding any revisions to the site plan; that concessions had already been granted for compromise with both the old and new requirements.

Volusia County Planner Scott Ashley discussed that the outstanding issue was regarding the two-story façade; that the new Gateway Corridor standards would require major revisions to the site plan; that Mr. Holly had been advised to present renderings for review by the City Council; and that no approval had yet been given. Mr. Ashley discussed that he had a meeting scheduled with Mr. Holly to discuss the site plan. It was discussed that it was understood that Mr. Holly's circumstances would be given consideration in achieving compromises with completion of his project; and that Mr. Holly could request an exemption to the architectural standards.

It was discussed further that the proposed change to the Gateway Corridor standards would require Mr. Holly to apply for a setback variance; that the site plan had not been approved at the prior meeting; that he had been advised to return with revised site plans; that the site configuration was to be retained with a proposed exception to the architectural requirements. The minutes were reviewed regarding the matter and that the new Gateway Corridor standards would require changes to the site plan's setbacks. It was discussed that the old standards would still be in effect if the matter was tabled; that only the architectural requirement would require an exemption. The motion and second were withdrawn. The hearing was continued to October 6, 2004 at 7:00 PM. Motion was

made by Council Member Gunter. Council Member Allen seconded. The motion carried unanimously.

2. Ordinance No. 16-04 – Amending the Village Center and South U.S. Highway 17-92 Overlay Districts – First Reading.

City Attorney Ardaman read Ordinance No. 16-04 by title. Public hearing was closed without objection and the Land Planning Agency hearing was opened. It was noted that the Ordinance had been read. Mayor Rosamonda entertained a motion to recommend to the City Council to approve Ordinance No. 16-04. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried unanimously.

The Land Planning Agency hearing was closed and public hearing was re-opened without objection. City Attorney Ardaman read Ordinance No. 16-04 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 16-04 as recommended by the Land Planning Agency on first reading. Motion was made by Vice Mayor Coleman. Council Member Allen seconded.

3. Ordinance No. 12-04 – Amending the Sign Regulations – First Reading. (Added since September 1, 2004)

Public Hearing was closed without objection and the Land Planning Agency hearing opened. City Attorney Ardaman read Ordinance No. 12-04 by title. Mayor Rosamonda entertained a motion to recommend approval of Ordinance No. 12-04 to the City Council. Motion was made by Council Member Gunter. Vice Mayor Coleman seconded. The motion carried unanimously.

The Land Planning Agency hearing was closed and public hearing was reopened without objection. City Attorney Ardaman read Ordinance No. 12-04 by title. Mayor Rosamonda entertained approval of Ordinance No. 12-04 as recommended by the Land Planning Agency. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried unanimously.

4. Resolution No. 04-18 - Adopting Tentative Millage Rate for the Levy of Ad Valorem Taxes for Fiscal Year 2004-2005 and Setting a Final Budget Hearing Date. (Added since September 1, 2004)

It was discussed that there was a correction to Section 2 of the Resolution; that the roll-back rate is 2.42979 and the current rate is 3.2 % greater. City Attorney Ardaman read Resolution No. 04-18, as corrected, by title. It was discussed that the current rate is 2.57046; that the deadline had passed for addition of any non ad-valorem assessments. Mayor Rosamonda entertained a motion to approve Resolution No. 04-18. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. It was discussed that the maximum ad valorem tax rate was established in July. The motion carried unanimously.

5. Resolution No. 04-19 - Adopting Tentative Annual Operating Budget for Fiscal Year 2004-2005. (Added since September 1, 2004)

City Attorney Ardaman read Resolution No. 04-19 by title. It was discussed that a Budget Workshop had been held; that some modifications had been received and corrections made; that hiring of Parks and Recreation personnel would begin October 1, 2004; that the current contractor would continue in the interim; that a parks and recreation space needs study had not yet been completed; and that the budget had included funds for a storage building at Bill Keller Park. It was also discussed that the City Council budget included travel and per diem to the National League of Cities Conference; that it had only been utilized twice; that, if not utilized, the funds would roll over to Reserve; that funds used for City Council telephone expenses could be reduced; that contributions for certain civic events might be considered for reduction; and that it had been discussed to merge certain civic and City events to realize savings. Mayor Rosamonda entertained a motion to approve Resolution No. 04-19. Funds budgeted for contributions and subscriptions to the Chamber of Commerce was discussed; that the City Council had approved the contract for services and membership dues with the Chamber of Commerce; and that unspent funds would remain in Reserve. Motion was made by Council Member Gunter. Council Member Carson seconded. The motion carried unanimously.

6. Resolution No. 04-20 - Adopting a Non-Ad Valorem Assessment Roll for the Orlandia Heights Neighborhood Improvement District. (Added since September 1, 2004)

City Attorney Ardaman read Resolution No. 04-20 by title. It was discussed that the budget had been reviewed and discussed at the workshop. Mayor Rosamonda entertained a motion to approve Resolution No. 04-20. Motion was made by Vice Mayor Coleman. Council Member Allen seconded. The motion carried unanimously.

7. Resolution No. 04-21 - Adopting a Non-Ad Valorem Assessment Roll for the Collection and Disposal of Solid Waste. (Added since September 1, 2004)

City Attorney Ardaman read Resolution No. 04-21 by title. Mayor Rosamonda entertained a motion to approve Resolution No. 04-21. Motion was made by Council Member Gunter. Council Member Allen seconded for discussion. It was discussed that there might be concern that the new waste collection company had financial issues; that the company's recommendations were not consistently positive but their contracts had been renewed with several of the municipalities they were servicing; that the contract had already been awarded by the City Council; that if their financial position had not been presented accurately, further evaluations should occur; and that service was not contracted to begin until January 5, 2005.

It was further discussed that, if solid waste collection services were re-bid, additional funding might be required; that a maximum assessment of \$132.00 per residential unit was allowed; that pursuant to the current assessment other bids had exceeded that assessment; that assessments could be rebated if not utilized; and that solid waste

disposal from hurricane debris was already placing the City at a deficit. Council Member Gunter amended his motion to approve Resolution No. 04-21 with the change to Section 3 that the amount of the assessment should be \$132 per residential unit with total revenue at a 100% collection rate shall be \$955,416. Council Member Allen seconded. The motion carried unanimously. It was further discussed that additional research should be completed before making any further decisions on the waste collection company.

8. Resolution No. 04-22 - Adopting a Non-Ad Valorem Assessment Roll for Streetlighting Districts. (Added since September 1, 2004)

City Attorney Ardaman read Resolution No. 04-22 by title. Mayor Rosamonda entertained a motion to approve Resolution No. 04-22. Motion was made by Vice Mayor Coleman. Council Member Allen 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 are considered by one motion unless removed from the Consent Agenda by a member of the City Council.*

- *1. Funding Agreement with the Volusia County Metropolitan Planning Organization (VMPO) for FY 2004/2005.
- *2. Revised Final Site Plan – DeBary Nextel Communication Tower – Project Number 04-F-FSP-0554
- *3. Emergency Contract for Hurricane Debris Collection and Disposal; Waive of Permit Fees for Emergency Repairs. (Revised)
- *4. Joint Participation Funding Agreement with FDOT for Landscaping from Highbanks Road to Barwick Road.
- *5. Municipal Service Contracts with Volusia County and the Volusia County Sheriff. (Added since September 1, 2004)

Mayor Rosamonda entertained a motion to approve the consent agenda. Motion to approve was made by Council Member Gunter. Council Member Carson seconded. It was discussed that the outside telephone line for the Sheriff's Office would connect directly to the dispatch line. The motion carried unanimously.

It was discussed that the City could agree to pick up all hurricane debris including private roads and then petition FEMA for reimbursement and that it appeared to be the consensus of the City Council Members that this would be the case.

It was discussed that Item 3 under New Business would be heard at this time. It was also discussed that City Manager Diamond had contacted Congressman Mica at Council

Member Allen's request to appeal and request reimbursement for those private streets; that a list of private streets had been provided; that a meeting was scheduled between the congressional delegation and FEMA to discuss potential life and safety hazards caused by the debris and reverse FEMA's decision; that the deadline for a cutoff date for debris pickups had to be established; that a second sweep of public streets would occur and would be reimbursed by FEMA; and that a one-time sweep of the private roads would be done with the understanding that if FEMA did not provide funds, it would be paid through the City's reserve funds.

It was discussed that FEMA only recognized public areas as eligible for assistance; that the City does pledge that private roads would have pickup; that it was crucial that the companies picking up do so in a timely manner to meet deadlines; that Waste Management was contracted to remove all debris including branches and limbs as well as logs; that the private streets would be done separately for accounting purposes; that a cut-off date had to be set; that it was requested that a Reverse 911 would be done to advise the public of the final date; and that the date would be left to the discretion of staff.

Carl Everett, 190 Ramblewood Dr., thanked the City Council for their action in approving the debris removal and stated that he hoped that residents of the area would consider the actions of the City in a positive manner.

Scott Kruger inquired whether the City was paying the costs of the removal on the private streets and also whether Waste Management was contracted or whether a bid process would occur. It was discussed that the City would pay for the service and attempt to recover funds from FEMA and that the City would pay the additional cost for the private road service. Mr. Kruger discussed that if the service to the private roads was not contracted, he had equipment to provide removal service at a possibly lower cost.

It was discussed that Mr. Kruger could possibly sub-contract to Waste Management; that liability and time issues were a consideration for the Council; that Mr. Kruger could discuss details with City Manager Diamond to ascertain if his service would be more effective in the private areas; that City Manager had the authority to make that determination; and that Orlandia Heights had applied separately to FEMA for assistance as a dependent District of the City, but did not yet have a ruling.

Tom Bernosky, 133 Sanford Avenue, discussed that he had brought copies of Statutes regarding maintaining private roads for emergency purposes in time of disaster; that he felt that Statute 252.38 showed an obligation by the City and the County to provide services equivalent to that provided on public streets.

Gene Leighton, 5 Smyrna Drive, discussed his concern that, if another contractor were allowed to work, Waste Management would not do a complete job for the City. It was discussed that the public streets would have to be completed before Waste Management would move into the private areas; and that City Manager Diamond would meet with the private contractor regarding work in Orlandia Heights and determine the most effective course.

Mayor Rosamonda entertained a motion to authorize the City Manager to begin debris removal on all private streets and fund them accordingly. Motion was made by Council Member Allen. Vice Mayor Coleman seconded. The motion carried unanimously.

VIII. Growth Management and Development Review

1. Re-instatement and Extension of Springview Self Storage Final Site Plan Development Order – Project Number 00-F-FSP-0122.

Volusia County Land Development Manager Palmer Panton reviewed the site plan request; that the original development order was issued in 2000; that completion of additional buildings was requested; that it was recommended that certain architectural standards that had changed not be enforced, as the buildings were to the rear of the property; that the original approval had been with a 10' buffer; that the PUD zoning required a 15' buffer due to adjacent residential property; that anticipated rezoning had not occurred; that the PUD only specified one ground sign; and that, if approved, an amendment to the PUD would be necessary for additional ground sign and buffer requirements.

It was discussed that the PUD amendment would be necessary prior to construction and that the PUD was discovered after Mr. Panton's comments of August 20, 2004. It was discussed that the facades should be more aesthetic for the residents. Mayor Rosamonda entertained a motion to approve re-instatement of the Final Site Plan Development Order and approve the extension of a valid period until September 1, 2005 and authorize no construction until the PUD of that property was adjusted in Project Number 00-F-FSP-0122. It was discussed that the provisions for the setback and wall sign would be part of the PUD amendment. Motion was made by Council Member Gunter. Council Member Allen seconded. The motion carried 4-1 with Vice Mayor Coleman dissenting.

IX. Old Business

1. None

X. New Business

1. Jobs Growth Incentive Economic Development Agreement with Millennium Luxury Coaches.

City Manager Diamond discussed the request from Millennium Luxury Coaches; that the criteria of the ordinance were met for business development and job creation; that a capital investment of \$2.2 million was anticipated with 30 employees; that the agreement's terms were for the City to provide \$45,000 equaling \$1,500 per job; that the development would occur on the corner of Benson Junction Road and S. Shell Road; that Volusia County Economic Development Department was providing matching funds for

additional incentives; that certain criteria for salary levels had to be met; and that the DeBary Economic Development Advisory Committee recommended approval.

It was discussed that there was not a representative present when the Economic Development Advisory Committee met and that references for the company appeared to be positive. John Kaiser, with Volusia County Economic Development, discussed that he was speaking on behalf of Nelson Figueroa who had had to leave the meeting; that the company manufactured luxury coaches; and that the company had a reputation as a family-oriented business with the majority of the employees residing in the County.

There was further discussion that representatives had been present at the EDAC meeting but had not addressed the Committee. Julia Horne, Office Manager with Millenium Luxury Coaches, discussed that there had been circumstances preventing other representatives from appearing this evening and that she would be happy to address any inquiries. Motion to approve was made by Council Member Carson. Vice Mayor Coleman seconded. It was also discussed that the Agreement called for three annual installments based on certain criteria; that it was a concern that those 30 positions would be maintained; and that annual verification was required in Section 7 for the number of positions. The motion carried unanimously.

2. Bid 04-06 - Adelaide Street/Delespine Drive Drainage Improvements.

City Manager Diamond reviewed the process to date; that six bids were received and the lowest bid was from Progressive Contractors at \$194,753 for both construction and performance payment bonds. The possibility of recovery of funds from FEMA or through mitigation was discussed and that other grants might be available now that the disaster area had been declared. Mayor Rosamonda entertained a motion to award the bid to Progressive Contractors Incorporated for Bid 04-06. Motion was made by Vice Mayor Coleman. Council Member Carson seconded. The motion carried unanimously.

3. Discussion of Hurricane Debris Collection on Private Roads. (Added since September 1, 2004)

This item was discussed after the Consent Agenda.

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

1. Board/Committee Reports

2. Board/Committee Appointments

A. Board: Economic Development Advisory Committee
Member

C. Carson

Council Member Carson nominated Leonard Marks. Mayor Rosamonda entertained a motion to approve Leonard Marks as a Member of the Economic Development Advisory

Committee. Motion was made by Council Member Carson. Council Member Allen seconded. The motion carried unanimously.

B. Board: Streetscape Advisory Committee

3. Member Reports/Communications

A. Mayor and Council Members

Council Member Gunter discussed the donation of the Volusia County parcels at Florence K. Little Town Hall for a new city hall and stated that no progress had been made to date due to recent events.

Council Member Carson discussed that he and Tom Smith had noted 31 acres on the corner of East Highbanks Road and Enterprise Road and that he would like investigation on utilizing that area for retention.

Vice Mayor Coleman discussed a letter that he recalled regarding the County using the corner of Enterprise Road; that the County had selected it due to wetlands in other areas and also because of the irregular shape. He discussed that his attendance at meetings had been limited due to the recent events.

Council Member Allen discussed the Water Authority of Volusia (WAV); that yearly fees had increased to \$31,000; and that Deltona had plans to donate wells in lieu of payment of fees therefore causing fees to DeBary and other municipalities to increase. Vice Mayor Coleman discussed that there was progress being made in other areas by WAV and that WAV had also explored other options for permanent financing aside from the donations.

Council Member Allen discussed further that DeBary contracted with the County; that a representative from the County should be available to monitor the lakes and the pumps; that they did not appear to be providing appropriate services to the City; and that in the future obtaining bids from multiple jurisdictions should be explored. It was also discussed that City Staff should receive some compensatory days for the additional time they had worked during the storms; that some time during the holidays would probably be appropriate; that suggestions for dates would be made by the Council Members; that some temporary help should be hired; and that the County still should provide more support.

Mayor Rosamonda discussed that meetings should be held with Elaine Swanson and the City Staff regarding resources for future Emergency Management needs; that a report on additional equipment needed and other matters should be made; and that a financial plan should be made.

The Mayor also discussed that the City had elected not to charge a stormwater fee after incorporation; that it might become necessary to set a fee in the future; that once a

stormwater master plan was in place, an appropriate fee could be determined; and that it would not be possible to continue funding from general fund revenues. City Manager Diamond discussed the option of having a storm water utility study; that the levels of assessment would be determined based on soils and land usage and that assessments could then be made more equitable. It was discussed if it was the consensus of the City Council that PEC should submit a proposal to do the stormwater utility report; that a proposal could be prepared to present to the City Council; that it might be necessary to offer the study for bid; and that it could be added on to the current agreement.

It was discussed whether a generator should be added at some of the pump stations; that it would be part of the Emergency Management report; and that FEMA also might be able to assist.

Mayor Rosamonda discussed that inappropriate activity may have taken place in the Saxon Woods development that impacted flooding issues; that is asking for feedback from the City Council on the possibility of hiring a private investigator to interview homeowners, contractors and other parties in Saxon Woods and in Glen Abbey to determine if any responsibility might be attributed to actions in those areas; that St. Johns River Water Management District had a compliance department that could also be consulted; that City Manager Diamond would provide more information at the meeting of September 27, 2004; that the City Manager could be directed to proceed to hire an investigator; that it would be appropriate to move quickly while the flooding issues were readily apparent; that information could then be provided to any appropriate agencies; and that City Attorney Ardaman had contacts available for that service.

B. City Attorney

It was discussed that an executive session would be held at 6:00 PM on September 27, 2004.

C. City Manager

XII. Adjournment The meeting adjourned at 11:30 PM.

**APPROVED November 3, 2004
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk