

City of DeBary  
City Council Workshop  
Wednesday,  
November 17, 2004  
**7 PM**

Florence K. Little Town Hall 12 Colomba Road

**Minutes**

**I. Call to Order**

**II. Roll Call**

**Present:** Mayor Carman Rosamonda, Vice Mayor George Coleman, Council Member Danny Allen, Council Member Richard Gunter, and Council Member Chris Carson.

**Also Present:** Acting City Manager Maryann Courson and City Attorney Kurt Ardaman.

**III. Business**

**1. Selection of City Manager Applicants for Interview.**

Mayor Rosamonda requested that Council Member Elect Danny Tillis and Council Member Elect Patrick Fulton join the Council for the selection process. He instructed that they cannot formally vote, but that their input is welcome.

Patrick Fulton stated his top five choices for City Manager: Don Findall, Maryann Courson, Charles Hammond, David Miles, and Greg France

Danny Tillis stated his top five choices for City Manager: Jamie Croteau, Maryann Courson, Michael Lamar, Alfred Miles, and Kevin Patton.

Vice Mayor Coleman stated his top five choices for City Manager: Carl Berkey-Abbot, Maryann Courson, Don Findell, Greg France, and Michael Lamar.

Council Member Allen stated his three candidates for City Manager: Maryann Courson, Greg France, and Michael Lamar.

Council Member Carson stated he only picked one candidate for City Manager: Maryann Courson.

Council Member Gunter stated his top five choices for City Manager: Carl Berkey-Abbot, Don Findell, Stanley Hawthorne, Michael Lamar, and Dennis White.

Mayor Rosamonda stated his top five choices for City Manager: Maryann Courson, Michael Lamar, Stanley Hawthorne, Don Findell, and Patricia Quigley.

It was the consensus of the Council that six candidates would be interviewed. The six candidates that received the most votes were Michael Lamar, Greg France, Don Findell, Stanley Hawthorne, Carl Berkey-Abbot, and Maryann Courson. A questionnaire is to be sent to each candidate. Criminal background checks will be completed after the interviews as a cost-saving measure. Mayor Rosamonda suggested that Anita Gonzalez send out the questionnaire. The unopened questionnaire will be returned to Mayor Rosamonda who will distribute the responses to the rest of the Council. The candidates' response to the questionnaire will be due on December 3<sup>rd</sup> at noon. The interviews will be held December 11<sup>th</sup> beginning at 8:30 a.m. The travel expenses and hotel accommodations for the two out-of-town candidates, Carl Berkey- Abbot and Michael Lamar, will be furnished by the City.

## **2. Discussion of Solid Waste Collection and Disposal Contract and Bid.**

City Attorney Dan Langley, stated that Waste Services Inc. withdrew their bid and executed a settlement and mutual release agreement. This was prepared and executed due to Staff's and Council's concern about the financial condition of Waste Services Inc.

Bob Hyles, 134 Hickory Ridge Drive, Waste Pro Senior Vice President, stated that the company is ready and able to perform the contract if awarded. Documents were provided to the Council indicating the Waste Pro's ability to receive garbage trucks prior to January 1<sup>st</sup> and its strong financial position.

Janie Coleman, Waste Management of Orange City, stated, for the record that she is not related to Vice Mayor Coleman. Waste Management wants to be the City's provider for the next seven years. It had been anticipated that the City would piggyback on the Volusia County contract; that the Volusia County contract is for an automated collection system and that each resident will be provided with a 96-gallon can. She stated that Waste Management provides 1,163,760 opportunities per year to serve the residents of DeBary; that DeBary has a 98% satisfaction rate determined by an independent survey; that the company is financially sound; and that the company has the resources to provide services as evidenced by their response to the hurricanes. Automated collect is neat, clean and uniform and will be an asset to the community and the garbage cans currently in use can be used for yard waste. If Waste Management is awarded the bid this evening, a contract can be ready for review within 48 hours. Waste Management is offering a rate of \$10.35 per home per month for the first year of the agreement; the rate would increase by .78 per year thereafter.

Council Member Gunter questioned the procedure for bids and stated that Waste Management cannot re-bid at this time. Vice Mayor Coleman restated that the bid was a sealed bid that has already been opened. Mayor Rosamonda also stated concerns about accepting a new bid tonight from Waste Management. As part of the bid, collection service for all City Parks and facilities was included at no charge. Council Member Gunter enquired why a seven-year contract was selected and not a three-year contract. Council Member Allen stated that a seven-

cost of gas increases, the rate is locked in and the increased operating costs cannot be passed on.

A motion to approve the settlement and release agreement with Florida Recycling Services Inc. was made by Vice Mayor Coleman. Council Member Carson seconded the motion. The motion passed unanimously.

Council Member Gunter moved to award the bid to the next lowest bidder, which is Waste Pro. Council Member Allen seconded the motion. The motion passed unanimously.

**3. Discussion of Interlocal Agreement between City of DeBary and County of Volusia. – Council Member Richard Gunter.**

Council Member Gunter stated that he is concerned with the ongoing problem of receiving Construction Engineering inspections for DeBary. Acting City Manager Courson contacted the County Manager regarding the problem. An email sent to Acting City Manager Courson from County Engineer Brinton stated that “we are not going to do the work, so don’t pay us” was inappropriate. He questioned if the City should continue to contract with the County; if there is a way to make the current agreement work, and stated that he would prefer to find a way to make the Interlocal Agreement work. City Attorney Langley prepared a memorandum in response to this issue. His findings were that either party can terminate the entire contract without cause with a 6-month’s notice, that there is no provision to terminate just a particular service; and there is no limitation on damages that could be sought. The City would have an obligation to mitigate damages. If the City hired an independent contract for Construction Engineering inspections and the cost was higher than what is in the Interlocal Agreement, the County could be liable for that amount. The Agreement calls for a mandatory conflict resolution process if the City decides to sue the County. The mandatory dispute resolution would involve three joint meetings with the County followed by mediation. The City and the County would share the cost of \$200 to \$500 per hour for the mediation. If there is no resolution at mediation, then a suit could be filed. To try to force the County to provide services is not allowed, as there is a monetary remedy. It would be unlikely a court would force the County to perform services. Options are: to terminate the contract; modify the Interlocal Agreement to address the Construction Engineering inspection service issue; hire an independent contractor; or adopt a resolution to adopt conflict resolution procedures.

Acting City Manager Courson stated that, as of yesterday, the County Engineer has provided an inspector for the US Highway 17-92 Streetscape project.

John Wilson, 113 Pine Valley Court, feels inspections were either not done or not done properly. Specifically, he cited the Saxon Woods project.

Mayor Rosamonda stated that he is disappointed with the County’s performance. He feels the County is missing the opportunity to provide services to the cities and to generate revenue for the County. They have claimed they could not provide services and the City hired private contractors to provide the services. He feels the County could have performed but chose not to so that they would not be exposed to liability.

Vice Mayor Coleman read emails that he had received. He stated County Manager Coto was co-operative in his contacts with her. He believes that it was a communication problem with line supervisors.

Mayor Rosamonda stated that it is his opinion that the City frequently calls the County or contacts County Council Member Long due to service problems. Council Member Allen stated that he is concerned that the County continues to allow homes to be built below the crown of roadways; that these projects continue to receive County approval; and that the hurricanes have highlighted the problem with this practice. The Saxon Woods' subdivision drainage problems can be linked to improper inspections. At the time of the hurricanes, there was not enough manpower in the entire area, not just Volusia County. He feels the City should improve communications with the County and that the County will want to terminate the agreement. Mayor Rosamonda stated that a study comparing County services to other options is needed. During the past 11 years, the cost of the service contracts with the County have gone up tremendously. The City has repeatedly requested specific billings to evaluate if the charges are equitable and they have not been received. He feels the City needs to research other options and prices, as he feels the City is not receiving either quality or price. Council Member Allen suggested that PICO could be used for building inspections.

Mayor Rosamonda stated that he wishes to research service provisions with other municipalities in the County and other cities outside the county. He favors competitive bids for services. The City needs to have quality services for the long run and competitive pricing to avoid future costs. Acting City Manager Courson stated that she had visited a home in the DeBary Golf and Country Club that was less than a year old and that had standing water problems. The development plan called for a specific lot grading that was not done. There would not have been a drainage issue if the lot had been graded as specified on the development plan. Mayor Rosamonda stated the same problem existed at Saxon Woods and that the lots were graded to slant the wrong way.

Acting City Manager Courson stated that a continuing problem is the granting of drainage variances. The variance permits the building of homes below the crown of the roadway. It appears that the variances are granted when the application is signed. Staff is working on an ordinance to address stormwater run-off on residential lots. Council Member Allen stated that the County does not enforce the current code and does not check drainage work. Council Member Carson stated that there are problems with services. Council Member Gunter wished to review all services except Police and Fire Services. Council Member Allen stated that property should be purchased for a public works facilities.

Mayor Rosamonda directed Acting City Manager Courson to do a study of three organizations for each service. Private organizations and private corporations should be considered. Council Member Allen stated that John McCue, City Manager of Orange City, said they could operate Growth Management services for about half the price the County charges. Mayor Rosamonda questioned if the City could cross County lines for services. Mr. Langley stated that he will review this issue. Council Member Gunter would like a timeline so that if the City chooses to use alternate service providers, the County will receive a 6-month notice. Acting City Manager

Courson is directed to return to the Council with this information at the February Council meeting.

**4. DeBary Art League Request for Sponsorship of “Youth Celebration of the Arts”**

Mayor Rosamonda presented the Art League’s request for sponsorship of this event. The sponsorship would be a combination of “in kind” services and cash in the amount of \$3,500. Council Member Gunter objected to a cash contribution. Council Member Allen is also concerned with a cash contribution. Council Member Gunter made the motion to approve “in kind” services up to \$3,500. Council Member Allen seconded the motion. The motion passed 4-1 with Vice Mayor Coleman dissenting.

**5. Appointments to DeBary Streetscape Advisory Committee.**

Vice Mayor Coleman nominated Joseph Mc Shay of 71 Alano Road. Council Member Carson nominated Jack Lenzen of 17 Laurianne Drive.

Council Member Allen motioned to accept these nominations. Council Member Carson seconded. The motion passed unanimously. Acting City Manager Courson reminded the Council that there are two at large and one alternate position that need to be filled.

Marcia Carson, of Citizens for DeBary, Inc., confirmed that the request for funding by the Citizens for DeBary for the Christmas Parade is for \$2,000. Vice Mayor Coleman motioned to approve “in kind” funding up to \$2,000 for the Citizens for DeBary for the Christmas Parade event. Council Member Allen seconded. The motion passed unanimously.

Mayor Rosamonda discussed the conference center and asked for guidance from the Council if they wished to continue to be a partner in the project. Daytona Beach Community College is applying for an ECHO grant for the conference center and the partners need to know if the City will participate. Council Member Allen cited all the needed capital improvement projects in the City as better ways to spend the funds. Vice Mayor Coleman stated that he initially opposed the conference center. He is willing to commit a million dollars to be paid over three years if an inter-local agreement is approved. Council Member Gunter questioned the inter-local agreement’s clause of agreeing to pick up the facilities deficits indefinitely. The agreement also lacks a provision for an audit of the facility. Additionally, he wanted the agreement to state what is the specific benefit to the City of DeBary. Mayor Rosamonda suggested that any monetary commitment would be withheld until there is an inter-local agreement.

Vice Mayor Coleman requested an update concerning the Stormwater assessment. Acting City Manager Courson reported that the consultants, Ken Hooper of PEC, reported an extension must be sought from the Property Appraiser due to the complexity of the information that must be compiled. A 4-tiered assessment rather than a 2-tiered assessment may be needed. Property Appraiser Morgan Gilreath stated verbally that he is willing to extend the deadline to March.

Vice Mayor Coleman questioned the status of the Saxon Woods subdivision. Mayor Rosamonda stated and that there is no change and that there still is a stop work for new construction. Mr. Hamstra is reviewing the plans with Saxon Wood's engineers to make design changes so that the subdivision's drainage will function.

Vice Mayor Coleman stated that someone will have to replace him at the WAV meetings. Patrick Fulton attended the WAV meeting today and stated that he will probably volunteer to fill this vacancy. He suggested a technical person also attend, and suggested that Acting City Manager Courson attend. Mayor Rosamonda directed that this appointment be placed on the January 5<sup>th</sup> City Council agenda. Vice Mayor Coleman stated that a VCOG representative is also needed. Council Member Allen stated that it is time for the City to hire a separate City Clerk. Mayor Rosamonda agreed.

Council Member Allen stated that there are quite a few first time start-up costs for the staffing up of the Parks Department. This cannot be done at the price initially quoted. He also questioned the use and storage of the City trucks. Acting City Manager Courson stated that the trucks will be stored at the parks. The trucks will be used by Parks and Recreation only, unless staff needs to use the crew cab truck for travel to a conference. Council Member Carson reported concerning the Light-Up DeBary Event to be held at Gateway Park; that a 22-foot Christmas tree was purchased today; that Radio Disney will appear; that the lighting contractor will charge \$6,500 to do the whole park and the shuttle area; and that other expenses are: 10 tons of snow at \$1,700, shuttle at \$1,500, fireworks \$1,000, and entertainment at \$4,200. Vice Mayor Coleman and Council Member Carson debated the use of the money for community events. Mayor Rosamonda stated that the City is annually criticized for their limited holiday decorations. Acting City Manager Courson reported that lighted decorations are being installed on the streetlights downtown. Mayor Rosamonda supported a quality event and additional funding. Acting City Manager Courson reported that the City's budget for a signature event is \$20,000 for the year. Contributions to private organization are a separate line item. Council Member Gunter discussed the items of the event and he motioned that the Council approve another \$5,000 for a total of \$15,000 for the tree lighting event. Council Member Allen seconded the motion. The motion passed unanimously. The event starts December 10<sup>th</sup> at 7:30 p.m. Gateway Park will be lighted throughout the holiday season for the residents.

Council Member Gunter reported that he attended the Moonlight 'N Mums event at DeBary Hall and that it was very successful. He stated that the City needs to support this event and the DeBary Hall facility.

Mayor Rosamonda enquired if the antique lighting for north US Highway 17-92 was in last year's streetscape budget. Acting City Manager Courson stated that Progress Energy still needs to price the project. Mayor Rosamonda directed Acting City Manager Courson to pursue this project with Progress Energy.

Mayor Rosamonda reviewed dates for depositions for the Stewart Marchman issue. The Council decided that January 4<sup>th</sup> would be best for all Council Members. The mediation date would be January 24<sup>th</sup>.

**IV. Adjournment** – The meeting adjourned at 10:30 PM.

**APPROVED January 5, 2005  
CITY OF DeBARY  
CITY COUNCIL**

**Carmen Rosamonda, Mayor**

**ATTEST:**

**Maryann Courson, City Clerk**