

City of DeBary, Florida  
Regular City Council Meeting  
Wednesday  
December 8, 2004  
7:00 PM  
Florence K. Little Town Hall  
12 Colomba Road  
DeBary, Florida

**MINUTES**

**I. Call To Order**

1. Invocation
2. Flag Salute

**II. Roll Call**

Present: Mayor Rosamonda, Vice Mayor Coleman, Council Member Allen, Council Member Carson, and Council Member Gunter.

Also present: Acting City Manager Maryann Courson, Assistant City Attorney Dan Langley, David Hamstra of Professional Engineering Consultants (PEC), City Storm Water Consultant, Volusia County Planner Scott Ashley, Tara Boujoullian from Volusia County Environmental Protection, and Planning Administrator Anita Gonzalez.

**III. Public Participation For Any Issues Not On the Agenda**

**IV. Approval of Minutes**

1. None.

**V. Presentations**

1. Annual Report - Historic Preservation Advisory Board.

Mr. Gerry Lombardi, 45 Catalina Drive, Chairman of the DeBary Historic Preservation Board, thanked the Council for their support during the past year and also thanked the Board members and Planning Administrator Anita Gonzalez. Mr. Lombardi reported that the Board made two field trips this year, they visited the DeLand Historical Museum and an Indian burial mound located on the St. Johns River. The property owner was able to share facts on how the earlier residents lived. The Board feels that there are more residents who have information to share and, toward that end, "Introduction of the DeBary Area" presentation is scheduled at the DeBary Library on January 12<sup>th</sup> at 10 AM the speaker will be Bill Dreggors and Jesse Beale. The Board hopes to have a series of these talks in the future; to purchase a display case for area artifacts; and a long-term goal to find a permanent home where residents may follow the history from the

very beginning. The Board pledges to protect the City's history and to encourage others to gather historic data of our community.

Mayor Rosamonda expressed his desire that the new City Hall will have space for a museum room for residents to have permanent access to these materials. Mr. Lombardi asks that all interested residents attend the Historic Preservation Advisory Committee meetings.

Mayor Rosamonda opened discussion on the following item to accommodate residents attending the Council meeting.

## **IX. Old Business**

### **2. Saxon Woods Subdivision Stop Work Order.**

David Hamstra, Stormwater Engineer, PEC discussed tying Pine Valley Court into the US Highway 17-92 drainage system: improving the 17-92 system includes overflow systems, larger pipes to prevent flooding, installing a new pump station to carry the water north to Miller Lake; turning this lake into a staging area to hold water from Pine Valley Court, Saxon Woods and the County Club; and to purchase a few low-lying houses to allow higher staging of water on Miller Lake. The cost would be \$2.25 million.

Mr. Hamstra stated that another option would be to purchase the four houses directly impacted by the flooding on Pine Valley Court, enlarge the existing retention pond system to hold the excess water, then send water to US Highway 17-92, and pump water north to the Terrace Hill pond. At that point, the pond would need to be retrofitted to a treatment system at a cost of \$2.5 million.

The last option would be to pump water from the DGCC to the Terra Alta retention pond and then north to Miller Lake. There is an existing 20-year old pump station pumping 2.5 miles from Miller Lake to the St. Johns River. This will cost \$1.75 to \$2 million. Mr. Hamstra stated that there is not much information on this pump station or its condition and that this is a last option due to jurisdictional and maintenance issues.

Mr. Hamstra stated there are six or seven additional homes on Pine Valley Court, which back up to Saxon Woods that experience yard flooding. The resolution of this problem would be an additional \$150,000 to \$200,000 to move the water from their back yards through exfiltration pipes, inlets and restored swales. This is in addition to the other improvements discussed tonight.

Mr. Hamstra stated that the Florida Department of Transportation (FDOT) would require the City to pay for the additional costs of permitting and larger pipes to use their existing stormwater line. Council Member Allen asked what the cost would be for a west side pumping system to move lake water in a line along West Highbanks Road to the River and enquired why that option was not pursued. Mr. Hamstra stated that the immediate focus was on the flooding at Pine Valley Court and the Saxon Wood's subdivision and that this project will be addressed. Council Member Allen suggested looking into this issue first as a cost-saver that will address a much

larger area. Mr. Hamstra stated that FDOT's project is currently ongoing and the City needs to pursue this opportunity while it exists. If the FDOT system cannot accommodate Pine Valley Court's water, the west side system will need to be pursued as well as cost sharing of the project with FDOT and the County. Mayor Rosamonda also noted that he is meeting with David Rasmussen regarding the borrow pit to determine if it can be used for stormwater retention. This would be valuable if the St. Johns River Water Management District (SJRWMD) refused to permit pumping to the St. Johns River.

Vice Mayor Coleman asked that the storm water line could run along the Saxon Boulevard extension to the St. Johns River, if constructed. He also stated that the City should not buy houses on Pine Valley Court while there are empty lots in Saxon Woods where they could store their water.

Mayor Rosamonda and Mr. Hamstra discussed the next steps in the process to address the drainage issues. Council Member Gunter asked as to progress of the Master Storm Water Plan that PEC will submit; that this study will impact the decisions on how to solve the water problems for the entire City; and stated that he is concerned about the cost of addressing drainage problems piecemeal. Mr. Hamstra cited that the focus has been on the flooding at Pine Valley Court due to the stop work order at Saxon Woods. Mayor Rosamonda stated that there are many parties involved in this project and these parties would share the cost of the system.

Mr. Hamstra stated that there is possibly a three to six-month opportunity to join in the FDOT project. The cost to utilize the FDOT system would be \$1.75 to \$2 million; this would include local work in Pine Valley Court, permitting, design, and upsizing the pipes. Mr. Hamstra stated that the advantage of the Miller Lake option is that the last 1.5 miles are gravity fed to the lake, which will save on maintenance in the long term. There is still the issue of buying houses at that location, which is a more rural area. One house is flooded at Miller Lake. If the water is staged higher, easements will have to be obtained. There are two parcels of land for sale right now; one is 8.3 acres for \$1 million and 23 acres for \$5 million.

Mayor Rosamonda noted that the City received correspondence from Morrison Homes regarding a potential lawsuit. Assistant City Attorney Langley advised the Council to initiate discussions in a private forum with the parties involved. Mayor Rosamonda requested Council approval to meet with the City Attorney, Morrison Homes, FDOT, the developer Mr. Early and Acting City Manager Courson to bring back a proposal and levels of participation for Council approval.

Vice Mayor Coleman asked Mayor Rosamonda to discuss the meetings regarding the golf course in Glen Abbey. Mayor Rosamonda and Acting City Manager Courson met with Mr. LaConte. He is to a golf course drainage study to Mr. Hamstra for review. Mr. LaConte plans to re-open the golf course in November 2005; he is the owner of the golf course and requested the City's help to re-open and solve drainage problems in conjunction with the City's Storm Water Master plan. Assistant City Attorney Dan Langley noted that Mr. LaConte has filed a motion before Judge Sander to enforce the previous judgment.

## V. Presentations

### 2. Recognition of Tom Smith's Assistance During Hurricanes.

Mayor Rosamonda stated that only three people have been presented with a Key to the City: Peg McAllister, Greg France, and Bill Long. He stated that Tom Smith went above the call of duty when No Name Lake was cresting Highbanks Road. It was difficult obtaining fill dirt to stop the flooding and Tom Smith provided the fill dirt, a front-end loader and placed pre-cast barriers to dam along Highbanks Road; he worked numerous hours on Pine Valley Court to prevent homes from flooding; and provided technical expertise during the emergency. Mr. Smith stated that he was honored to be a citizen of this community.

Linda White, Chamber of Commerce West Volusia, stated that December 9<sup>th</sup> is the deadline for the Volusia County's ECHO grant application for the Conference Center at Veterans Memorial Parkway. As a result, the Chamber has put together as many irrevocable letters of credit as possible for the matching grant funds. The letters of credit will also be used in the first cycle for the state matching grant money. Deltona and Orange City have extended irrevocable letters of credit for the \$1 million dollars expected from DeBary until the City can deal with the issues of the flooding in the City.

Mayor Rosamonda stated that there would be a future meeting to discuss the City's participation. Ms. White stated that she sent the estimated budget data concerning the Conference Center for the Council's review; that she expects the County Council to also expend funds for the Conference Center; and that Council Member Gunter's questions regarding operating costs and revenue projections will be answered. Ms. White stated that she would attempt to get a copy of the ECHO grant for review at City Hall but that the application is over 200 pages. Council Member Allen questioned if the County will donate \$1.6 million as well as the property. Ms. White stated that she expects this will be approved at the next County Council meeting.

## VI. Public Hearings

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

1. Request for Variance from Front Yard Setback (15 Feet in Lieu of 25 Feet) for 601 Via Chris Court – Applicant Mr. Lockman. – To be Continued to a Time Certain.

Acting City Manager Maryann Courson stated that notice was not received in time for publishing and that, due to the postal expenses, there is a request for a time certain hearing. Council Member Gunter motioned to continue till January 5<sup>th</sup> City Council meeting. Vice Mayor Coleman seconded. Motion carried unanimously.

2. Resolution No. 04-29 – Minor Amendment to Springview Center Business Planned Unit Development (PUD).

Volusia County Planner Scott Ashley provided an historical overview of the project stating that most of the PUD requirements have been met, that the required 50-foot buffer for Building G cannot be met; that there is also an issue with signage; and that the applicant is requesting that the 50-foot buffer be amended to a 10-foot buffer which currently adjoins residential zoned property. Mr. Ashley stated that according to the PUD the site is limited to one ground sign only of 60 square feet, however, a mistake was made and a permit was issued for a wall sign on US Highway 17-92. The sign has been on site for two years; that recently there was a change in name; and the mistake was found. This request is also to amend the PUD to allow the wall sign, which due to its size and current frontage along US Highway 17-92 would be allowed under the City sign regulation and it should be allowed. Council Member Allen motioned to approve the amendment. Vice Mayor Coleman seconded. 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. None.

## **VIII. Growth Management and Development Review**

1. Reinstatement for extension Final Site Plan - Dunn/Cordoba Doctors of Orthodontics – File No. 960-F-FSP-0 030.

Volusia County Planner Scott Ashley gave an historical overview of the project. The site plan development order was approved on October 14, 1996, which expired two years later. One building was built at the time of site plan approval, the owner now wishes to construct the second building as reflected on the original site plan. The landscaping, parking lot and infrastructure are in place. To approve the request, the owners need to hook up to sewer, increase the landscaping requirements, and provide evidence that the SJRWMD permit is either extended or still valid. Vice Mayor Coleman stated that plans should comply with the current parking space size requirement.

Council Member Gunter motioned to approve the reinstatement of the Final Site Plan conditional on meeting requirements of sewer hook up, landscaping and SJRWMD permit. Council Member Allen seconded. Motion was approved 4 to 1, with Vice Mayor Coleman dissenting.

## **IX. Old Business**

1. Storm Water Master Plan – Aerial Photography and 1-Foot Contours.

Acting City Manager Maryann Courson stated that this is the final tool for an efficient Master Storm Water Study. The approved scope of work includes survey and GPS location for every drainage structure, the character of the structure, and how it flows. The current FEMA flood maps identifies the City flood zones as Zone A which does not identify the true flood elevations for our citizens; the current FEMA flood map does not help residents to identify if they should purchase flood insurance, the current flood map is not accurate and did not reflect what did in fact occur during the hurricanes. Council Member Allen questioned the cost of \$135,610 of the topographical map of the central portion of DeBary and noted this should have been part of the original approved plan. Acting City Manager Courson stated that Former City Manager Richard Diamond omitted the aerial topographical data due to budget limits. Council Member Gunter also questioned the cost. Mayor Rosamonda was disappointed that the topographic maps are so antiquated as to be useless and stated that, in order to make good decisions, modern, accurate maps are needed. Mayor Rosamonda, Council Members Gunter and Allen discussed the need for the maps and the costs. Council Member Gunter would like Acting City Manager Courson to advise PEC that cost overruns will be closely questioned.

Council Member Gunter motioned to approve the request. Council Member Carson seconded. Motion carried unanimously.

2. Saxon Woods Subdivision Stop Work Order.

Previously discussed.

**X. New Business**

1. Request for Waiver of Code Enforcement Board Liens and Fines for Old Mill Road Property.

Acting City Manager Courson stated that this is the “houseboat” issue that has been ongoing for an extended period of time, the City did not have jurisdiction when it was not tied down to land, as it was then a vessel. When the structure was attached to the land a Code Enforcement action was initiated. Staff opposes this request to reduce the fines. The owners are now in compliance.

Todd Duval, 40 Smyrna Drive, stated that it took a long time to move the boat as it was beached; that he had to wait for it to flood to move it; that the property is clear and everything is gone; that he did the best he could; that the boat is a vessel not a structure; and that the US Coast Guard agrees with him. Mr. Duval stated that there was no pollution issue; that he has Florida numbers for the houseboat; and that it is a houseboat to be lived in, but it is not completed yet.

Tara Boujoulian, Volusia County Environmental Protection, stated that, even floating, it was considered a structure on wetlands and that there is a toilet on the structure. The houseboat has been moved further up the coast out of our jurisdiction.

Council Member Allen motioned to waive the fee entirely. Council Member Gunter disagreed. There was no second to the motion. Planning Administrator Anita Gonzales noted that the City

has administrative costs of \$11,765 in pursuing this code violation. Council Member Gunter motioned to settle the matter with the property owner paying the administrative costs of \$11,765. Council Member Carson seconded. Motion carried 4 to 1, with Council Member Allen dissenting.

2. Request by Orlandia Heights Board of Directors to Waive Formal Bid Process for Roadway Chip Sealing.

Acting City Manager Courson stated that the Orlandia Heights Improvement District has a five-year plan to chip seal the roadways and that year one of the plan is complete. The District has the same purchasing regulations as the City in that formal bids are required for all projects over \$8,000. The formal bid process can be waived for fast track projects. The roadway chip sealing could be considered a fast project, in that the project must be completed quickly to receive FEMA's reimbursement. Staff recommends approval. Vice Mayor Coleman motioned to approve. Council Member Carson seconded. Council Member Allen questioned the cost per ton of the chip seal. Orlandia Heights Board Member Chris Bowman, 56 Sackett Road, stated that the Board has obtained three bids per FEMA's approval requirements. There are two projects on the document that the Council has before them and that FEMA would reimburse some, but not all of it. Motion carried unanimously.

3. DeBary Art League Request for Approval of Gateway Center for the Arts' Building Design.

Mayor Rosamonda stated that the DeBary Art League is applying for a Volusia County ECHO grant. The filing deadline is noon Friday, December 10<sup>th</sup> and that the item before the Council is the League's proposed design for the Center for the Arts at Gateway Park. Sandra Wilson, 37 Keeble Avenue, of the DeBary Art League, stated that the Art League's lease with the City requires Council approval of the design and this is needed for the ECHO grant application. Terry Lodge, 279 Adelaide Street, is the architect for the project, which is at the final engineering phase. Vehicle access will be through the front gate of the Park. If future access is available from Saxon Blvd., that access would be the entrance to the Arts Center. The building design is turn-of-the-century Florida to fit in with the character of DeBary. Mr. Lodge described the Center as having four squares: the center square, the auditorium/assembly room, is multifunctional; the square around it is for art studios and permanent galleries; the whole building has a wraparound porch for daily use by artists and the community; the front is for offices and retail; at the rear is the auxiliary building that has three rooms; and one is a full rest room for Gateway Park. Also, there are event overflow rooms and storage in the auxiliary building. There is also a plan for a man-made outside open-air brick kiln. Ms. Wilson stated that the kiln outside is for economies of heating and cooling; and the facility will have a catering kitchen and a patio area. Mr. Lodge stated that the Center is handicap accessible; ADA compliant for artists and the public; parking is for the Arts Center as well as parking for the Park itself; and that there will be more parking when Saxon Boulevard is extended. Vice Mayor Coleman stated that it may be many years till the Saxon Boulevard extension is completed. Council Member Allen noted that there is an arterial road requirement of 500 feet from Highway 17-92 to have an access to Saxon Boulevard. Mayor Rosamonda stressed that there is still dual

use for the parking for both the Park and the Arts Center. There was a discussion of the impact of needed retention ponds on the design. Vice Mayor Coleman motioned to approve the conceptual design and the site plan. Council Member Allen seconded. Motion carried unanimously.

4. Facility Use Agreement – DeBary Little League Inc. and City of DeBary.

Acting Manager Courson stated that this is an annual agreement for the use of the baseball fields at Community and Bill Keller Parks. This is the same agreement as last year and she is recommending approval. Council Member Allen questioned the exclusive sales agreement with Coca Cola that was executed for the installation of the scoreboards. Acting City Manager Courson will research who are the parties to the contract with Coca Cola. Council Member Allen questioned the City paying for the gas utility and stated that he was informed that the gas was at no charge. Also, the old agreement gave the City the option to use the Park when needed. Mayor Rosamonda stated this is an important feature to be addressed in the contract and that it will be addressed at a future meeting. Council Member Carson requested a regular report be required from the Little League. Council Member Allen stated that the contract must have a requirement of a schedule of the games so others can use the fields. The Little League cannot simply block out the fields so that no one can use them.

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

1. Board/Committee Reports
2. Board/Committee Appointments
  - A. Orlandia Heights Board of Directors  
Tom Bernosky – Willing to Serve Another Term

Council Member Carson motioned to re-appoint Tom Bernosky. Vice Mayor Coleman seconded. Motion carried unanimously.

B. Streetscape Committee

Mayor Rosamonda nominated Ken Runge; Vice Mayor Coleman nominated Warren Graham as an at-large candidate; Council Member Allen nominated George Coleman as an at-large candidate; and Council Member Carson nominated Norm Erickson as an alternate member. Council Member Gunter motioned to approve the nominations. Council Member Allen seconded. Motion carried unanimously.

- C. Public Safety Advisory Committee  
Gene Leighton – Willing to Serve Another Term
- C. Rosamonda

Mayor Rosamonda motioned to approve Gene Leighton for another term on the Public Safety Advisory Committee. Vice Mayor Coleman seconded. Motion carried unanimously.

### 3. Member Reports/Communications

#### A. Mayor and Council Members

##### Holiday Schedule

Discussion was held to close City Hall during the holiday season to compensate for the extra hours worked during the hurricanes. Staff has requested December 23<sup>rd</sup> to the 27<sup>th</sup> in order to have a five-day weekend off at Christmas. The five-day weekend would only be for the benefit of salaried staff that worked without compensation during the hurricanes. City Hall would remain open with minimal hourly staff. Approval was made without objection.

Vice Mayor Coleman stated that he had attended Growth Management meetings.

Council Member Allen questioned if there will be another meeting on the storm water fee issue and a meeting on the conference center. Acting City Manager Courson stated that a Council meeting would be held on December 20<sup>th</sup> at 7 P.M. Discussion was held regarding a Staff/Council Christmas party; it was decided to hold the party either at the DeBary Golf and Country Club or at the Swamp House on December 22<sup>nd</sup>.

Councilman Allen suggested adding the Council members to the health insurance at their own costs. Council Member Allen motioned to allow Council Members to opt into the City health plan at their own cost. Council Member Gunter seconded. Motion carried unanimously.

Council Member Gunter stated that the County is applying for a grant for general operating funds for DeBary Hall Historic Site. The County is requesting a letter of support from the City on the letterhead and Mayor Rosamonda will sign the letter on behalf of the City.

Council Member Gunter questioned the staffing level at DeBary Fire Station 33. An additional person was approved in this year's budget. The Fire Services Chief stated that there is a lag time due to the training time of the additional person.

Council Member Gunter reported that he attended the Volusia League of Cities Dinner at the DeBary Hall Historic Site and that it was a good evening. More information is needed concerning the contract with the County for services vs. alternate providers. Acting City Manager Courson stated that this information would be available to the Council in February.

Council Member Carson requested that the new Council members have an orientation by City staff. Acting City Manager Courson stated that she has been meeting with the new members for some time. Council Member Carson would like to have the new members spend time with Financial Administrator James Seelbinder and with Parks Administrator Anthony Gonzalez.

Council Member Allen requested information on the mosquito problem; Acting City Manager Courson was directed to contact Mosquito Control to request spraying.

Council Member Carson noted that there is a dead oak tree on site at the Civic Center and, since the City uses the facility, he suggested that the City remove the tree. Acting City Manager Courson stated it could be an “in kind” expense; the City would remove the tree in exchange for rental of the Civic Center. Assistant City Attorney Dan Langley recommended an agreement to outline the services provided by each party.

Mayor Rosamonda received a call from Congressman John Mica. The City has received a grant of \$250,000 to build a DeBary commuter train station at the Saxon Boulevard Extension. The money will be in place for three years. The City needs to have Saxon Boulevard extended and Congressman Mica will work assisting the City to receive funds for the extension.

Mayor Rosamonda requested that the City Council review the Emergency Management Plan, which Acting City Manager Courson has provided to them. He requested a workshop in February or March so everyone will be aware of their role during such emergencies.

**B. City Attorney**

The County has scheduled the Oglesby property purchase closing for this Friday, December 10<sup>th</sup>.

**C. City Manager**

Acting City Manager Courson stated that a date should be set for a workshop to discuss adoption of Storm Water Assessment Fee. The Workshop was set for December 20<sup>th</sup> at 7 P.M.

The City Council’s Stewart Marchman depositions are rescheduled for January 31<sup>st</sup>. Assistant City Attorney Dan Langley stated that the judge would not require the parties to schedule mediation prior to the opportunity for depositions.

Acting City Manager Courson advised the Council that the Volusia League of Cities Dinner to be hosted by DeBary is scheduled for May 26<sup>th</sup> and suggested the River Ship Romance cruise be reserved for the dinner. Council Members approved this request. .

**XII. Adjournment** The meeting adjourned at 11:05 p.m.

**APPROVED February 2, 2005.  
CITY OF DeBARY  
CITY COUNCIL**

**Carmen Rosamonda, Mayor**

**ATTEST:**

**Maryann Courson. City Clerk**