

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
January 5, 2005
7 PM
Florence K. Little Town Hall
12 Colomba Road DeBary, Florida 32713

MINUTES

I. Call To Order

II. Roll Call

Members Present: Mayor Carmen Rosamonda, Vice Mayor Richard Gunter, Council Member Chris Carson, Council Member Patrick Fulton, and Council Member Danny Tillis.

Others Present: City Manager Maryann Courson, City Attorney Kurt Ardaman, and City Planning Administrator Anita Gonzalez

III. Presentations

Mayor Rosamonda announced that Volusia County Council Member Bill Long, County Council Member Joie Alexander, and former County Council Member Pat Northey were present.

Council Member Bill Long read a Proclamation from Volusia County Council to George Coleman and Danny Allen which proclaimed January 5, 2005 as George Coleman and Danny Allen Day. Council Member Long also thanked the wives of both individuals for their years of support.

1. Mayor Rosamonda presented certificates of appreciation to L. D. Balmer and Martin Neiswinder, Seminole Precast, for their efforts in placing concrete barriers to hold up the berms at No-Name Lake, in an effort to cease flooding during the hurricanes in the summer of 2004.
2. Pastor Furlong swore in incoming City Council Member Patrick Fulton, Seat 2.
3. City Manager Maryann Courson swore in incoming City Council Member Danny Tillis, Seat 1.
4. Mayor Rosamonda thanked Former Vice Mayor Coleman and Former Council Member Allen for their service and presented each with a Key to the City and a plaque.
5. Election of Vice Mayor

Council Member Fulton entertained a motion to nominate Richard Gunter. Council Member Carson seconded. Motion carried unanimously.

IV. Public Participation For Any Issues Not On the Agenda

John Lajza, 305 Caddie Drive, discussed his approval of the transition from Waste Management to Waste Pro; that his opinion was that flooding at the entrance to DeBary Golf & Country Club was from the storm water system. It was discussed that a vac truck would be removing water in order to get a better visual on where the problem starts. Mr. Lajza stated that he was advised by a maintenance employee that this problem was created from pumping Kings Lake. It was discussed that the leak stopped for a period of time even though pumping was still being done.

Robert Knott, 100 Glen Club Court, as spokesman for the Glen Abby Golf Course Committee discussed that Glen Abby Golf Course was deteriorating; that no projection for return to operational condition was in place; that a January meeting would be held between the current course owner, Mr. Richard LaConte and the City to discuss possible action affecting the future of the course; and that it was hoped that flooding and other issues would be addressed to allow the course to reopen. It was discussed that plans from the consultant for storm water issues had not been received by the City; that the City would make every effort to resolve the situation for all parties; and that the matter would receive prompt attention.

Mr. Lajza discussed communication with the City Manager in reference to the non-percolation of No-Name Lake; that the City should determine this problem instead of waiting to go through the storm water drainage plan. It was discussed that the upcoming meeting with the course owner was to negotiate and gather information; that December's meeting addressed the consulting work for drainage; that the owner's business plan projected the golf course to reopen in November 2005; and that the owner also suggested dredging No-Name Lake. It was further discussed that the City exercise caution prior to dredging; that the front nine of the course could possibly be in operation faster than the end of the year.

The prospect of purchasing the course as a municipal course was discussed; that, if the prospective buyer reneged, a proposal could be considered; that grant funds might be available; that there was conflicting information regarding this project; and that Mr. McCraney assured that the owner was moving in a proactive direction and requested the support of the City.

Connie McCandless, 225 Englenook Drive, Reserve at DeBary, stated that the pump in her area was gone; asked about the bid process; and inquired when construction would begin. It was discussed that the City had waited for an estimate from Road and Bridge that was now received; that PEC was reviewing competitive pricing for a formal bid; and that it was a lengthy process but would be completed.

Eugene Stump, 106 Birkwood Court discussed the water problem at US Highway 17-92 and Plantation Boulevard; that he had been advised this was not gray water but that the water had to be

County water bubbling out of a manhole on Plantation Drive; and that the City should decide who is responsible for the water problem and that it would be repaired. Mayor Rosamonda assured Mr. Stump that plans are in place to bring in a vac truck to pull out the water in order to get a better visualization. Council Member Tillis stated that he was advised by County Council Member Bill Long that Volusia County Utilities will repair the problem and keep him informed of the progress.

John Likakis, 38 Seminole Drive, suggested a bi-monthly or monthly newsletter; that a quarterly publication was insufficient; that he had sent a letter to the Mayor, with copies to Council and he would like a response; that his most recent letter mentioned an article in the Orlando Sentinel regarding Southland Home's acquisition of fourteen home sites at DeBary Golf & Country Club; that another 35 home sites were proposed west of the Country Club, adjacent to the elementary school; that he had concerns with improper grading, inspections, and other building problems; that he questioned what steps are being taken by the City to avoid a reoccurrence of these problems and to avoid future flooding problems; and that he had concerns with impact to schools, police, fire protection, and roads.

It was discussed to have the City engineer review projects currently in place and suggested additional development codes to make storm water requirements more stringent; that, when a project is completed, the engineers certify that what was designed was actually built; and that, upon completion, the engineers confer with Volusia County and the City of DeBary that the project was built as designed.

Mr. Likakis stated that if that system were in place, then there would not be the Saxon Woods problem. It was discussed that the City did not get certification from the engineers that the project was built to design, as a retention pond was built incorrectly; and that the project has not been certified to move forward with their storm water.

Mr. Likakis also enquired about proposed condominiums. It was discussed that public records have been checked and proposed condominiums are not shown. City Manager Courson advised that there is not a comprehensive plan designation to do that type of density, which would require a large-scale comp plan amendment, and would have to go before the Council twice for approval.

It was discussed to hold the builder accountable, where it was certified that there was in-ground drainage, where none existed: that the engineer certifies as-builts and has responsibility to verify.

Linda Hayes, 120 Lake Drive, Orlandia Heights, discussed that she has spent \$10,000 to build a dam to keep rising water out of her home and that she spoke with a tanker driver who has been hauling approximately 50,000 gallons of water/day since September 3rd and has been dumping it about one mile from her home. Ms. Hayes enquired why the City could not help her situation. It was discussed what was the responsibility Orlandia Heights Committee has; that the District responsibility is narrow in scope and only includes roadways; that if they could reasonably relate the problem to road maintenance they can act; that they had brought this to the attention of the District; that it is a private subdivision; and that an application was not submitted to address the issue.

Dan Disrud, 301 Alexandra Woods Drive, discussed DBCC pond and the amount of water; that when the pump shut down, within 24 hours the pond was up one foot; and that the issue needs to be addressed before the rainy season. It was discussed that certification had been requested and the pond was built correctly; that David Hamstra had reviewed plans and engineering and it appeared to be groundwater seepage; and that City Manager Courson would follow up.

V. Approval of Minutes

1. Regular City Council Meeting held November 3, 2004.
2. City Council Workshop held November 17, 2004

Motion to approve minutes as presented was made by Vice Mayor Gunter. Council Member Carson seconded. The motion carried without objection.

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.

Volusia County Planner Scott Ashley briefed Council that the lot was in a cul-de-sac and, based on the shape of the property and in order to meet setback requirements, has to be set back approximately 70 feet from the front lot line; that plans presented show that the house will not fit on the lot and meet setbacks; that the applicant would prefer that the house be moved closer to the road to enjoy a greater setback at the rear of the house; that Staff does not feel that it is a sufficient hardship as outlined by Section 107.3 of the Land Development Code, and recommended denial.

Mr. Lockman, 7616 Arlene Avenue, presented pictures of the lot and suggested how setbacks could be placed; that the developer supported the proposed setback, as a home on the lot would be an enhancement. It was discussed that a conservation area existed to the rear and whether other property owners might request the variance. Mr. Ashley restated this is a very unique lot and the reason for the variance request. It was discussed that if there were drawbacks if the variance was approved; that Staff determined the home can fit on the lot, meets the standard per PUD; and that no true hardship exists. It was discussed that there has been approval in the past for similar lots; that criteria for approval of a variance leaves discretion to Council; that conditions appear unique to that particular parcel; and that the neighborhood would be enhanced by having the fronts of the homes consistent.

Motion to approve was made by Vice Mayor Gunter. Council Member Fulton seconded. The motion carried unanimously.

2. Ordinance No. 01-05 - First Reading – City-Initiated Small-Scale Future Land Use

Map Amendments to the City Comprehensive Plan.

Planning Administrator Anita Gonzalez briefed Council; that plan amendments were for small scale and large scale map amendments to parcels over ten acres in area, as well as text amendments; that what is before Council on this date are sites proposed for small-scale land use changes; that later in the year there will be text changes and large-scale map changes; that these changes have been reviewed by the Volusia Growth Management Commission, certified letters were sent to property owners within 700 feet, sites have been posted, and that there will be advertising in the newspaper prior to the February 2nd second reading.

Planning Administrator Gonzalez described the parcels to be changed as follows, along with a description of the land use change that is proposed:

1. Site located on N/W corner of East Highbanks Road and Enterprise Road.
2. An FDOT retention pond, located on the east side of US17-92, across from what would be the extension of Ft. Florida Road.
2. Parcel located at the apex of US Highway 17-92 and Old DeLand Road.
3. Two parcels on Sunrise Boulevard, in front of the DeBary Hall Historic Site.
4. Parcel located at the intersection of Lupine Lane and Bougainvillea Drive, a portion of the nursing home.
6. Three lots associated with the DeBary Mansion on Sunrise and DeBary Drive

Motion to approve was made by Council Member Tillis. Council Member Carson seconded. The motion carried unanimously.

3. Ordinance No. 02-05 - First Reading – Phase III Administrative Re-Zonings.

Planning Administrator Gonzalez presented eight sites, advising that some correspond to the small scale land use changes and some do not:

1. Pinnacle Plaza at Palm Road and DeBary Drive.
2. Parcel on the north side of Spring Vista Drive and on the west side of US 17-92.
3. South side of Spring Vista Drive, between US 17-92 and Shell Road.
4. Parcel on south side of Spring Ridge Drive, east of US 17-92.
5. Two parcels owned by private owners on Sunrise Boulevard in front of the Mansion.
6. Lots located on the north side of Lake Crescent Drive, near the intersection of Magnolia Place, on the east side of I-4.

Richard Gailey, 341 Magnolia Place, stated that the reason people bought homes in the neighborhood was due to current zoning; that the lots were the only noise buffer between Interstate 4 and the neighborhood; and that he felt noise levels were increased with the completed I-4 road widening project. Mr. Gailey also enquired if a study was done regarding drainage; that there were drainage

problems due to drainage ditches not being maintained; and that there is drainage running across his lot into the lake because of where it is positioned. It was discussed that City Manager Courson would follow up with Mr. Gailey. Mr. Gailey commented about potential loss of trees; that it is all they have to act as a noise barrier wall now that the I-4 project is complete and funds are depleted; and that if zoning is changed, the purchaser of the lot for residential would possibly remove the trees, causing a noise issue also.

Brett Myers, 369 Magnolia Place, agreed with Mr. Gailey with respect to the neighborhood and the importance of keeping the buffer zone; that the interstate is extremely loud when winter time arrives and tree leaves fall; that future consideration be made for in the event the lots are made available in the future; and that he did not have any reservations about building homes on the lots, but consideration needs to be made by either the County or DeBary, or DOT, to build some type of buffer for sound for the neighborhood.

It was discussed whether property owners had contacted Staff about changing zoning to allow sales or construction on the lots; that two of the three owners involved in the five lots had called to advise they are interested in selling the lots for single-family home construction. Further discussions addressed the future potential of an individual making a request for R-4 zoning; whether they could be denied because there are no wetlands on the property; that the City would have to justify such denial; that FDOT be requested to check sound levels; that a stipulation could be added in zoning to have older trees preserved as a sound buffer; that stipulations on a rezoning can occur only in a PUD; and that the City Manager and City Planner discuss issues with FDOT for a possible sound barrier.

Discussions ensued about postponing this item; that delay would require re-noticing and another ad; that FDOT could be contacted prior to second reading regarding noise barriers. It was the consensus of the City Council to modify the first reading, allowing 30 days, make the second reading, and hear from staff regarding FDOT.

It was discussed to continue the hearing to a time certain to avoid the need for a re-advertising; that a land development code provision could be crafted to address these lots; whether the factual layout, physical circumstances, proximity to the roadway would require some kind of a wall or buffer; whether it was already required in the land development code; that discussion at this meeting and any action would put property owners on notice; and that when the time came for them to develop or build on the lot, if the City Council was in the process of adopting an ordinance that would require that buffer, then they would be bound by that.

Motion to approve was made by Vice Mayor Richard Gunter. Council Member Fulton seconded. The motion carried unanimously.

4. Ordinance No. 03-05 - First Reading – Amendment to the Noise Regulations of the City Code of Ordinances.

Planning Administrator Gonzalez briefed Council that she was contacted by an individual in the community with a medical condition requiring oxygen machines, and the need for a generator to

operate this equipment; that the Ordinance provides for an exemption to the Noise Ordinance to allow generators for these circumstances; that she has drafted some language to address the issue and would like to know if Council agrees with the language, or would like to modify the language; and that the issue would be resolved prior to any future reoccurrence of events.

It was discussed that the exception was appropriate for any individuals with medical concerns with permanently installed single-family home generators during power outages and time of emergency; that the definition should be clarified for what a power outage is in order to circumvent abuse of the Ordinance; that it was already crafted in the Ordinance; and that the language was specific to someone who has not paid their electrical bill and had their power cut off, as opposed to an entire neighborhood or block.

It was discussed who was responsible for declaring emergencies; that it should be clarified as to what is classified as a permanent generator; that the Ordinance could be modified to be more general for all needs in power outages, not necessarily medical; that in the title of the Ordinance, all the language is used as proposed, strike the words “after generators” in the middle of the paragraph, strike the words “for medical usage in a home”; and in Section I, which will become Paragraph 13 of Article 4, after the word “single family home”, strike the words “and used only for the operation of medically necessary equipment”; and that a word be identified to define “permanently.”

Motion to approve First Reading Ordinance No. 03-05 was made by Vice Mayor Gunter, removing in the title, after the word generator, the words for medical usage in a home; in the body of the Ordinance, under Section One, amending Article 4, Paragraph 13, after the word single-family home, remove the words “and used only for the operation of medically necessary equipment” with the understanding that a definition of “permanent” would be included. Council Member Carson seconded. Council Member Fulton stated for the record, ex-parte communication with interested parties. The motion carried without objection.

5. Ordinance No. 04-05 - First Reading - Amendment to the Land Development Code for Zoning Notifications.

Planning Administrator Gonzalez discussed the change to the buffer requirement for notification of property owners for rezoning from 700 feet, by certified mail, to 200 feet, by certified mail; that the cost is prohibitive at \$4.42 per certified letter, mailing to 100 to 150 property owners; that second was providing an exemption for the City for this type of re-zonings, to not have to notify property owners by certified mail within the proposed two hundred foot buffer, and that posting the property and the advertising would be sufficient. Volusia County Planner Scott Ashley noted that the change should be applicable to variances and special exceptions, not just rezoning.

It was discussed that the second proposed change that the requirements should be equal for the City and property owners; that at a reduction to 200 feet, the City could afford to publicly notice businesses and residents in that particular area.

It was discussed that there were 12 sites total between the re-zonings and the land uses that

overlapped; that the original list contained 1,114 property owners; that over 900 still required notification; that it supported the reduction from 700 to 200 feet and was consistent with other jurisdictions; that it might be possible to have mailings by First Class at 37 cents versus \$4.43; that a number of certified letters mailed in December were returned as non-deliverable; and that the goal was to make the process simpler for any resident or business as well as the City. It was discussed that State Statutes exempt municipalities and any governmental entity from the requirement; that prior Council Members had suggested the reduction from 700 feet; that the City should follow the same rule of notice; and that there might be a separation between types of zoning requests. Planning Administrator Gonzalez was unaware of any other municipalities with that distinction, and added that the same kind of notification change for other processes such as variances and special exemptions needs to be consistent.

Former City Council Member George Coleman, 286 DeLeon Road, explained that, currently, the County posted notices on-site and adjoining property owners were the only ones that really received information; that more people wish to be advised of the changes to their area.

It was the consensus of the City Council to amend the section of the Ordinance reading “ordinance initiated by the City shall be required to send certified letters to owners within 200 feet of the proposed zoning change”, by taking out the last sentence; that Certified mail is required; that the law requires certified letter be sent to the last known address; and that the property appraisers’ address is considered the best available information at that time.

Planning Administrator Gonzalez discussed the remaining phases to get zoning maps and future land use maps current; that, if all changes are adopted, there should not be any other rezonings where there are inconsistencies; that there are no additional land use changes needed to parcels under ten acres; that there are parcels over ten acres to be done as large scale comprehensive plan amendments, a nine-month to a year process; and that there are numerous text amendments that need to be processed. It was discussed again to strike the last sentence, add variances and special exceptions; that this would be added to the Ordinance for the second reading.

Mayor Rosamonda entertained a motion to adopt Ordinance No. 04-05 on first reading, removing the last sentence of Section 1B, and including the terminology, “this procedure be allowed for variances and special exceptions.” Motion to approve was made by Council Member Fulton. Vice Mayor Gunter 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.*

None.

VIII. Growth Management and Development Review

1. Final Site Plan - John Deere Landscapes -File No. 04-F-FSP-0923

Volusia County Planner Palmer Panton reviewed the final site plan approval for a commercial landscaping and warehouse facility on ten acres on the southeast side of Ft. Florida Road and Barwick Road; that zoning is a 2, with a special exception for sale of products not grown on the premises; that it was approved by the Development Review Committee in October; revised plans submitted in November; that Staff has approved them and approval recommended, subject to the conditions as noted on the Agenda Item; and that Item 3 was reworded to read: all trees and required buffers are protected and may not be removed. Trees removed from the buildable area of site, as shown on the site plan, must be replaced per the City's Planning and Development Code, except for those grown for civil cultures.

Steve Costa, 101 Currier Ives Court, Deland, representing Empire Cattle and the development of Landscape Wholesale Nursery, gave a brief history on the process; that issues with DeBary Land Development Code required that the parcel be subdivided prior to issuance of final site plan development order; that there were no plans to sell a portion of this parcel, so a subdivision process was unwarranted; that the majority of the conditions should apply, with the exception of Number 4, regarding Christian Nagel's comments; that the parcel is not adjacent to residential areas, only Florida Power and vacant property associated with their plant; that there was a comment regarding overhead door, but was uncertain of details; and that he requested Site Plan Review Condition 1 be stricken, to subdivide the property.

Further discussions were had regarding the existing zoning of the property, A-2, currently a tax break, now a business is being proposed, generating revenue; that future land use is industrial utilities, so the zoning and the future land use conflicted and has been returned to original zoning as agricultural on ten acres of a forty acre parcel. Mr. Costa advised Council that the tax assessor will take the property and break it out to wastelands, improved pasture, etc., leaving the 30 acres as agricultural, and asses the remaining ten acres at a different tax rate.

Planning Administrator Gonzalez was questioned about the overhead door and explained the situation and stated that there was not an issue.

City Manager Courson stated that Staff's recommendation is that the property be subdivided at this time, as this is the appropriate time to subdivide. There was further discussion regarding the ramifications of the property being subdivided in the future; that even though the property appraiser subdivides on their own initiative, it would not be done legally under the Land Development Code; that title problems would arise. Mr. Costa reiterated his disinterest in subdividing due to time issues. Mr. Panton explained the process and the timelines; that Development Review Committee (DRC) would recommend Council waive the platting requirements. It was discussed to add a stipulation that subdividing would be required before development of the remaining 30 acres.

Mayor Rosamonda entertained a motion to approve File No. 04-F-FSP-0923, John Deere Landscapes, revising Staff recommendation Number 1, to read: "the ten acre parcel shall be subdivided if any improvement to the thirty acres, or a portion thereof, is made to the thirty adjacent acres."

Motion to approve made by Council Member Fulton. Council Member Carson seconded. The motion carried without objection.

2. Request for Waiver/Release of Code Enforcement Board Fines
– 2 Azalea Road.

City Manager Courson discussed the Case and pending litigation; that there are two open code enforcement cases against the property; that the waiver would release one code enforcement case concerning the land use; that re-zoning did occur, he did submit a site plan, not yet seen by the City; and a second code enforcement lien is available to encourage compliance; and that Mr. Watts was advised of this issue. Ms. Courson recommended, in the best effort to avoid litigation, a waiver and release of all fines and liens for Code Enforcement Case DEB00001 only.

Mayor Rosamonda entertained a motion to release and waive the code enforcement fine for Case DEB00001. Vice Mayor Gunter moved for Staff recommendation. Council Member Fulton seconded.

3. Request for Waiver/Reduction of Code Enforcement Board Fines
– 361 Magnolia Place.

City Manager Courson discussed the details of the case; that there were violations of environmental regulations; that the case had continued for some time; that there was the environmental management issue that had to be resolved; permitting issues, as far as the stability of the ditch and handling of the pipe along the frontage off Magnolia Place; that there was an easement which had to be dedicated for catastrophic maintenance; that all issues have been resolved, that a use permit has been issued; and is recommending that the lien be released, and reduce the estimated cost to \$5,750, as agreed by the property owner.

Al Ford, Ford and Brugen, Attorneys, Lake Mary, on behalf of Mr. McDunough, agreed with the settlement amount of \$5,750, if it is agreed to release the lien.

Motion to approve made by Vice Mayor Gunter. Council Member Tillis seconded. The motion carried without objection.

IX. Old Business

1. Employment Agreement – City Manager

Discussions regarded the use of former City Manager Diamond's contract being used as a template for Ms. Courson's contract; that the main difference was the car allowance; that there were no relocation issues regarding Ms. Courson, as she lives in DeBary; that they were required to pay annual should she be terminated, and is included in the contract. Insurance coverage was discussed with respect to the car allowance, wherein a rider is attached to her policy to cover her for company business.

An evaluation period was discussed and if it was mentioned in the contract; that a preliminary evaluation be conducted within six months of hire date, or some type of probationary period imposed.

It was the consensus of the City Council that a six-month evaluation period be stated under 6A of contract, to state: City Council shall review and evaluate the performance of the employee in June or July of 2005 and thereafter; that the contract should state starting salary as \$93,300.

Motion to approve made by Council Member Carson. Council Member Fulton seconded. The motion carried with Council Member Gunter dissenting.

Discussion was had regarding the timeline for bringing in an assistant to the City Manager. City Manager Courson advised that an Assistant City Manager is required and agreed that proposed advertising for Assistant City Manager/City Clerk be brought to next Council Meeting. Ms. Courson also advised Council that the Assistant City Manager 's salary was derived from a staffing consultant. It was also agreed that it is a requirement that the City Manager position be advertised.

City Manager Courson proposed a new position be established for a City Clerk to assist Finance Administrator Seelbinder in this capacity; that the job duties for Clerk position be brought to next Council Meeting; that as a temporary fix for the understaffing problem, double-duty to be performed by the proposed City Clerk and the newly hired Assistant City Manager. It was agreed that the City Manager should structure the positions in order for her to perform the duties as laid out in her contract, and make modifications for office space as is required within City Hall.

2. Saxon Woods Subdivision – Recommended Drainage Improvements

Mayor briefed Council on the meeting with Mr. Early and his staff, the County, Morrison Homes, DOT, and the City; that verbal agreements were made during the meeting and recommended improvements noted by David Hamstra (PEC). Mr. Hamstra stated that Mr. Early spoke with the consultant and has given them the go-ahead to begin professional services for the proposed recommended improvements. Consultants have advised Mr. Hamstra that they are underway and moving forward as quickly as possible. Mr. Hamstra also described the proposed drainage improvements, however, whether they go to the borrow pit first and then the River is uncertain.

The financial responsibility of the project was discussed; that the cost estimate is roughly \$600,000, in order to place a bond; that a letter of credit should be issued to guarantee if the work is not done, that it could be attached; and that the City could approve it. City Manager Courson discussed Staff recommendation to approve release of the stop work order on Saxon Woods Subdivision, contingent upon entering into an agreement by all parties releasing all other parties; and contingent upon an instrument being provided to the City, guaranteeing monies for the improvements.

Further descriptions of the improvements were given by Mr. Hamstra; that the proposal was comprehensive. It was discussed that Mayor Rosamonda has an agreement with DOT to meet this month to discuss the western connector and their interest in participation, both design-wise and financially; that there had been discussions with Bill Long to get County's involvement.

Further discussions were had regarding No-Name Lake non-percolation. Mr. Hamstra gave a brief summary of potential reasons why this is occurring; that he recommended a gravity system or pump station system for No-Name, and a possible reworking of the permit with SJRWMD in order to pump some of the lakes lower than what SJRWMD is currently allowing; and that there are possible political ramifications in the future.

It was discussed that the borrow pit is important, since the City does not have to rely on taking it to the River; that the groundwater or aquifer might be the cause of the constant overflowing of lakes; that the time frame to install pipes was approximately one year due to permitting issues; that permitting cannot begin until the survey is complete and the application is submitted, which is proposed to be in June 2005, with advertising bids to follow. City Manager Courson stated that, since an emergency authorization is in place, there should not be a problem. It was also stated that if the District is aware that a permanent solution is being sought, it can be renewed for another year.

There were further discussions regarding possible solutions for the problem mentioned earlier regarding Ms. Hayes' private property. It was stated that this was not a safety issue, no life endangerment, and Florida law clearly states that public funds cannot be spent on private property. It was unanimous that Orlandia Heights Association should be approached for resolution and not the City of DeBary, as the majority of the homeowners in this area do not want City involvement.

Attorney Ardaman discussed that the developer cannot obtain certificates of occupancy unless and until all drainage improvements are constructed; that they must post an acceptable bond or irrevocable letter of credit to provide protection for the City in the event the construction is not completed within the timeframe stated; that the timeframe is not an issue with the provision for certificates of occupancy. Mr. Hamstra stated an estimate of 12 months from design, permitting, and construction; that a timeline not be established and that they could renegotiate should the timeline not be met; that an incentive might motivate builder for early completion; and that there be a checkpoint system established to follow the project progress.

Motion to approve Recommended Drainage Improvements to Saxon Woods was made by Vice Mayor Gunter. Council Member Tillis seconded. The motion carried unanimously.

X. New Business

1. Request to Amend Jobs Growth Incentive Economic Development Agreement – Millennium Luxury Coaches.

City Manager Courson discussed the development agreement for a period of three years; that Millennium Luxury Coaches would receive \$45,000 from the City to relocate their business from Sanford to DeBary; that Millennium had concerns with the agreement in meeting the timeline on regard to employee relocation due to potential issues with permitting, land development review, contractors, etc.; and that since the agreement currently states a timeline, Millennium would like to have an extension in order to not be in violation of the agreement. Millennium also requested to change the review requirements by the Economic Development Advisory Committee and City

Council. Ms. Courson recommends denial of this change, as the reviews are needed for checks and balances.

Evelyn Figaro, Millennium Luxury Coaches, discussed that the review by the Economic Development Advisory Committee caused them concern and they did not want to renegotiate the terms of the agreement. It was discussed that the economic development effort in DeBary is to bring these types of jobs in and should not be tied to a timeline.

Motion to approve request to amend jobs growth incentive agreement for Millennium Luxury Coaches was made by Vice Mayor Gunter. Council Member Tillis seconded. The motion carried unanimously.

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

1. Board/Committee Appointments
 - A. Board:
 1. Water Authority of Volusia (WAV)
 2. Volusia Council of Governments

Representation requested to attend meetings. Council Member Fulton agreed to attend WAV meetings and Vice Mayor Gunter agreed to attend Volusia Council of Governments.

2. Member Reports/Communications
 - A. Mayor and Council Members
 - B. City Attorney
 - C. City Manager

Council Member Fulton requested a debriefing from the storms from Fire Services, Law Enforcement, Elaine with CERT, City government in a general, open forum. City Manager Courson advised that this would be included in the Public Safety Advisory Committee meeting. He also requested the purchase of approximately four generators to work traffic lights in the event of future natural disasters. Mayor Rosamonda suggested contracted generators in lieu of purchase. Mr. Fulton also discussed potential hazards with the caution light at Fire Station 33. City Manager Courson stated that a motion was needed from Council to remove the light, followed by a letter to DOT. She also advised that, in previous conversations with DOT, they recommended removal of the light. Motion to approve request to remove caution light at Colomba Road and 17-92 was made by Council Member Fulton. Council Member Allen seconded. The motion carried unanimously. Council Member Fulton requested that the April Regular City Council meeting be rescheduled. Council agreed to meet on Wednesday, April 13th.

Vice Mayor Gunter applauded the City Celebration; that, in the future, the traffic plan needs to be revised for Gateway Park; that a possible solution was to place a limestone parking lot beneath the power lines on the same side of the street as Gateway Park. Vice Mayor Gunter

mentioned the streetlight situation at Donald E. Smith Blvd. with the developer of DeBary Golf & Country Club; that the City Manager could pursue this issue with the developer; that he recommended a schedule for goals and objectives for the City Manager; and that they be presented to Ms. Courson at the February City Council Meeting.

Vice Mayor Gunter discussed the purchase of property currently utilized for City Council Meetings, to include adjoining property; that this is County-owned property, encumbered by deed restrictions; that City Manager Courson had a meeting with Assistant County Manager Matt Greeson and stated that Mr. Greeson provided a memorandum of the meeting, which was provided to Council. Mr. Gunter said that the City is currently in negotiations with the County for acquiring the land.

Council Member Carson requested a date for the launch of City website. City Manager Courson stated that the website is approximately 85% complete.

City Manager Courson advised that the Volusia County School Board has scheduled a meeting with the City. Council agreed that March 1st at 5 PM. would be agreeable for the meeting, which would be held at Florence K. Little Town Hall.

Mayor advised that depositions are set for February 17th regarding Stewart Marchman.

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

**APPROVED March 2, 2005
CITY OF DeBARY
CITY COUNCIL**

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Manager