

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
February 2, 2005
7 PM
Florence K. Little Town Hall
12 Colomba Road DeBary, Florida 32713

MINUTES

I. Call To Order

1. Invocation
2. Flag Salute

II. Roll Call

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

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

III. Public Participation For Any Issues Not On the Agenda

Eugene Stump, 106 Birkwood Court, discussed suggested a site for a Civic Center located near the library and had provided information to City Council Members; that he felt the building should be studied for consideration. It was discussed that more information on the site should be obtained to determine what options might be available; that the cul-de-sac might be a potential site for other civic buildings; that a Civic Center in the downtown area would help revitalize that area and that potential would be lost if another site was selected; and that costs and other factors could be utilized in negotiating for the appropriate site.

Mr. Stump further discussed that Council Member Tillis had been very proactive in resolving a problem with illegal dumping near Springview.

Michael Yocum, 448 North Pine Meadow Drive, requested that the City Council review correspondence delivered to City Hall; that he was concerned that speeding and traffic intensity were a safety hazard to children waiting for school buses; that accidents, including at his own house, had occurred where vehicles had struck homes and power poles; and that he would like solutions proposed.

Mr. Yocum also thanked Fire Services for their fast response and assistance they provided in securing his home after an incident and stated that their actions were exemplary.

It was discussed that the City Manager would discuss immediate short-term traffic enforcement activity with Captain Osowski.

Richard Gailey, 341 Magnolia Place, asked for follow up on a email that he had sent to the City Council Members; that he had safety concerns with a gun and archery range operating in his area; and that he would like to know what Ordinances might apply to the situation.

It was discussed that the matter had been looked into; that any violations of the Noise Ordinance would be enforced; and that an Ordinance addressing the issue of gunfire within City limits would be formulated.

IV. Approval of Minutes

1. Regular City Council Meeting held December 8, 2004
2. Special City Council Meeting December 20, 2004

Mayor Rosamonda entertained a motion to approve the Minutes as written. Motion made by Vice Mayor Gunter. Council Member Fulton seconded. The motion passed unanimously.

V. Presentations

David Hamstra, PEC, discussed the status of the storm water system at this time. Mr. Hamstra discussed that aerial mapping and structure inventory was on schedule; that information should be completed at the end of March to early April to proceed with the Master Plan; that FEMA applications were underway; that borings were being conducted on the sink hole near Spring Vista and Shell Road and reports would be provided by next week to the City Manager to start repairs; that he had begun meetings with St. Johns River Water Management District (SJRWMD) regarding the west side Emergency Overflow System to address permitting and other pumping issues; and that he would provide updates on progress and what was needed from the City.

1. DeBary Country Condo – Richard Moody, Marketing Representatives and Robert Hall, President, Commonwealth Holdings.

Withdrawn from Agenda.

2. Community Park Design – Gary Warner, Glatting & Jackson.

Mayor Rosamonda reviewed the recent purchase of land to expand and redevelopment of the Park. Gary Warner, Glatting & Jackson consultant, discussed planning meetings that had taken place and presented a revised Master Plan for the Park; that changes had been made due to topographical studies that had been done; that there was a 20' drop from the old to the new property; and that the plan was for three ball fields, two soccer fields, play area, parking, maintenance and storm water infrastructure.

It was discussed that two entrances would be provided; that it was a challenge to place ball fields and other areas due to the contours of the land; that there was a 3 to 4-acre scrub jay area to be avoided; that use of concrete was minimized as much as possible; that some retaining walls would be required; that grassy slopes would surround the soccer fields and allow spectators to

sit; that storm water retention areas were of some concern; that ground water evaluations should be available in one to two weeks; and that there were site options for maintenance buildings.

It was discussed that the estimated \$7.5 million was of concern; that the Park could be constructed in phases; that utility and site work alone were in excess of \$800,000; that the directive was to plan a totally new park; that the option to renovate the existing park would be an estimated cost of \$2 million; that storm water studies would have to be completed to determine final costs; that estimates for trees and landscaping was conceptual; and that grant funds would determine phases of construction and landscaping and when plans were implemented, costs would be minimized.

It was further discussed that if the scrub jay habitat was vacated, there would be room for an additional ball field; that it was not certain if and when that area could be reevaluated; that the maintenance shed location should be appropriate to parking areas; that phasing the project might not be cost effective; and that DeBary could not take advantage of 30-year bonds due to restrictions in the Charter.

The option of renovating existing fields was discussed; that costs would still exceed \$2 million; that a workshop should be held to discuss solutions and options to reduce costs; that using additional grant money over two to three years might be an option. It was also discussed that an amendment to the Charter could be considered to allow long term bonds to help fund capital improvement projects for the future; that City Council wished to be cautious in accruing any debts to the City; and that a workshop to discuss the Park would be held on February 16, 2005 at 7:00 PM.

There was additional discussion that it was desirable to build a quality park; that sport tournaments and events could be brought to DeBary if the appropriate venue was created.

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:

City Attorney Ardaman reminded the Council of the requirement that the City Council should adjourn and reconvene as the Land Planning Agency for the City of DeBary to make recommendations to the City Council; that Items 1 and 2 would be read for the benefit of the Land Planning Agency, and both discussed when that body convened.

1. Ordinance No. 01-05 – Second and Final Reading – City-Initiated Small-Scale Future Land Use Map Amendments to the City Comprehensive Plan.
2. Ordinance No. 02-05 – Second and Final Reading – Phase III Administrative Re-Zonings.

City Attorney Ardaman read Ordinance No. 01-05 and Ordinance No. 02-05 by title for the Land Planning Agency. Mayor Rosamonda adjourned the City Council meeting without objection and convened the Land Planning Agency. Motion was made by Vice Mayor Gunter to recommend approval of Ordinance No. 01-05 to the City Council of the City of DeBary. Council Member Fulton seconded. The motion carried unanimously.

Planning Administrator Anita Gonzalez discussed that the DOT had conducted noise studies during June 2000 and did not qualify for a sound wall; that lots were vacant and buyers would be aware of noise conditions before purchasing; that such purchase acknowledged conditions and therefore would not qualify for a sound buffer wall to be built in the future; and that copies of DOT correspondence and criteria list were provided to the Council.

The option of re-planting trees was discussed; that homeowners individually or as a group could purchase the lots to maintain a natural barrier; and that lots could be developed if not purchased for such a barrier. It was further discussed that current zoning was RC and proposed Future Land Use was R-4 to be consistent with the subdivision. Council Members disclosed ex-parte communication with interested parties.

Richard Gailey, 341 Magnolia Place, discussed that the noise study in 2000 was conducted when trees were in leaf and creating more buffer; that changing zoning was an undue burden to current homeowners; that some option to mitigate the noise issue should be discussed in cooperation with area residents; and that the City had pursued the zoning change and not the lot owners.

It was discussed that the City Council could not impose tree requirements on purchasers of the lots beyond current Ordinance; that zoning changes would allow homes to be built on the lots; that RC zoning allowed one unit per 25 acres but provided for minimal development by an owner as the lots were less than 25 acres; that current owners could request a variance under RC zoning; and that the change to zoning would allow a total of five homes and the lots could be cleared under either designation.

Mr. Gailey further discussed that land to the rear of the lots was owned by DOT; that he requested that DOT be contacted to see what assistance they might provide such as landscaping; and that he thought they would work with the City Council.

Albert Pell, 400 Doyle Road, Osteen discussed that he owned one of the subject lots; that he was willing to sell the lot; and that he did not wish to lose any of his property rights.

Terry Goodale, 222 Dirksen Drive, stated that he was in favor of the Ordinance; that he owned one of the lots; and that he was aware of the zoning on the land. He also stated that he owned a shooting range; and that he complied with safety requirements and Ordinances and operated during reasonable daytime hours.

It was discussed that each property owner could apply for a variance under the RC zoning and the zoning would not change; that R4 allowed more uses and was consistent with the rest of the subdivision; and that, at some point in the past, the lots were incorrectly zoned.

Ken Leffler, 3111 Hill Street, New Smyrna Beach, discussed that he owned or assisted in purchasing three lots in the 1960's; that he had recently learned that under the current zoning that his lots were not saleable for residential purposes and had contacted the County; that he felt the cost of obtaining a variance would be more than the value of the lots; and that he was in favor of the rezoning.

Mayor Rosamonda entertained a motion, as the Land Planning Agency to recommend approval to the DeBary City Council of Ordinance 02-05 on second reading. Motion made by Council Member Tillis. Council Member Fulton seconded. The motion carried unanimously. The Land Planning Agency was adjourned without objection. The Public Hearing of the DeBary City Council Meeting was reopened.

City Attorney Ardaman read Ordinance No. 01-05 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 01-05 on the recommendation of the Land Planning Agency. Motion made by Council Member Tillis. Vice Mayor Gunter seconded. The motion carried unanimously.

City Attorney Ardaman read Ordinance No. 02-05 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 02-05 on the recommendation of the Land Planning Agency. Motion made by Vice Mayor Gunter. Council Member Tillis seconded. The motion carried unanimously.

3. Ordinance No. 03-05 – Second and Final Reading – Amendment to the Noise Regulations of the City Code of Ordinances.

City Attorney Ardaman read Ordinance No. 03-05 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 03-05. Motion made by Vice Mayor Gunter. Council Member Fulton seconded. The motion carried unanimously.

4. Ordinance No. 04-05 – Second and Final Reading – Amendment to the Land Development Code for Zoning Notifications.

City Attorney Ardaman read Ordinance No. 04-05 by title. Mayor Rosamonda discussed the changes and entertained a motion to approve Ordinance No. 04-05. Motion made by Council Member Fulton. Council Member Tillis seconded. It was discussed that a recommendation for the City Manager's Goals and Objectives would be to enhance communications. The motion carried unanimously.

5. Ordinance No. 05-05 – First Reading – Provisions of Stormwater Utility Services, Facilities and Programs.

City Attorney Ardaman read Ordinance No. 05-05 by title. Ken Hooper, with PEC, discussed the Ordinance and the upcoming Resolution to assign specific assessments; that rates would be assessed per parcel by property type and whether on public or private streets; that the report was prepared with information from the Property Appraiser's office; that PEC would work with Staff to prepare the assessment rolls; that 30-day notices would be sent to property owners; that any

errors could be addressed at Public Hearings; and that there was benefit to both public and private streets from the improved storm water system.

It was discussed that there was a deadline to meet if the assessments were to be collected; that the contract with the Property Appraiser's office and the Resolution discussed would be on the February 28th Council agenda; and that the roll would have to be completed by that date. Mr. Hooper discussed that some of the issues where streets changed over from public to private; that the time frame appeared to be on track; that it was crucial that the process was completed timely and correct. Motion made by Vice Mayor Gunter to approve Ordinance No. 05-05. Council Member Tillis seconded.

There was further discussion of issues where private streets merge with public streets; whether there was any solution for a particular home on a private street where flooding had occurred from an adjacent lake; that it was a privately-owned natural pond and not an owned retention area; that permission might be obtained from adjoining property owners to pump; that it was not certain whether ground water was the cause; and that the City was not able to spend tax dollars to engineer on private property.

There was further discussion that deep wells to drain this particular lake could not be permitted; that another home was flooded out by the same lake; and that if the Council directed, PEC could perform minimal investigation by survey and soil reports to determine whether flooding was from groundwater. Council Member Tillis moved to allow PEC to perform a survey.

City Attorney Ardaman discussed that a letter had been received from an Attorney representing some affected homeowners; that they believed that the City had responsibility for the flooding; that an engineering company had been hired by these homeowners to gather information to support their contention; that the City could have their findings evaluated by the City's engineering firm to determine merit; that it would be an appropriate expenditure of public funds if the City Council so desired.

It was discussed that the allegation was that the City had discharged water into an area that in turn caused flooding to the property and that the engineer for the property owners would provide the report to the City. Council Member Tillis' motion was not seconded.

The storm water assessment was discussed; that it was not desirable to have to increase taxes; that millage rates had been kept very low in DeBary; that the increase was for a specific and necessary reason; and that storm water retention had not been engineered adequately in the past and needed to be improved. Motion to approve Ordinance No. 05-05 passed unanimously.

It was discussed that a meeting would be scheduled on February 28, 2005 at 7 PM.

6. Resolution No. 05-01 – Requesting Florida Legislature to Support Growth Management Issues.

City Attorney Ardaman read Ordinance No. 05-01 by title. Mayor Rosamonda entertained a motion to approve Ordinance No. 05-01. Motion made by Council Member Carson. Council Member Tillis seconded. The motion carried unanimously.

7. Resolution No. 05-02 – Supporting Commuter Rail and Locating a Passenger Station at the Proposed Extension of Saxon Boulevard – Council Member Tillis.

City Attorney Ardaman read Ordinance No. 05-02 by title. It was discussed that there had been past efforts to encourage development of the Saxon Boulevard extension; that a grant of \$250,000 had been received for a train station; that the area was an appropriate venue; and that Deltona and Orange City had passed Resolutions in support of the train station at that location.

Pat Northey, with the West Volusia Chamber of Commerce, introduced David Bridgeman, Chair of the Governmental Affairs Committee for the West Volusia Chamber of Commerce, Chamber of Commerce Board Member Tom Smith, and County Council Member Bill Long. Ms. Northey spoke in support and offered assistance in the development of the project. County Council Member Bill Long discussed that interest in the project had intensified; that the County Council had included funding in the five year road program for study; and that additional construction funding should be forthcoming.

Mayor Rosamonda entertained a motion to approve Resolution No. 05-02. Motion made by Vice Mayor Gunter. Council Member Fulton seconded. There was further discussion of the benefit of the project to DeBary, Deltona, DeLand and Orange City.

Eugene Stump, 106 Birkwood Court, discussed that traffic on Donald Smith Blvd. would be alleviated by the extension of Saxon Blvd.; that there would be potential for school sites; and that a rail connection to the Orlando area would be beneficial.

It was discussed that there were typographical errors to be corrected in the document. The motion carried unanimously.

8. Request for Variance to Commercial Sign Regulations at 320 Dirksen Drive – Applicant FMS Management (IHOP) (To be continued to a time certain).

Mayor Rosamonda entertained a motion to table and continue to March 2, 2005 at 7:00 PM. Motion made by Council Member Fulton. Council Member Tillis 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

City Attorney Ardaman discussed that the builder and developer had presented a development agreement for review; that as directed by the City Council, the City Manager, David Hamstra with PEC, DOT representatives and City Attorney Ardaman had met with the developer and reviewed the agreement; that it required careful review by the City Council; and that it was signed by Morrison Homes, Inc and Early Development, Inc. and a letter of credit for a specified amount was provided.

City Attorney Ardaman further noted that the agreement provided that attached recommendations for the drainage improvements by the City Engineer would be followed; that it was suggested that community meetings be held to gather input; that plans would be submitted for review and approval to the City and to the City Engineer; that adjustments to the letter of credit were provided for; and that the City would agree to assist the developer to obtain easements and agreements with property owners when necessary.

City Attorney Ardaman reviewed details of the security of the agreement; that the letter of credit was in the amount of \$250,000; that within 60 to 65 days, the plans would be submitted to the City with cost estimates; that the letter of credit would then be amended to the estimates plus 20%; that any construction contract obtained by the developer would provide for the City to take over in the event of non-performance by the developer; that an additional amendment to the letter of credit would be made; that if the developer did not perform under the agreement in a timely fashion, a letter of credit in the amount of \$650,000 would be provided by Morrison Homes, Inc.; and that if those measures failed, the agreement provided that Certificates of Occupancy would not be issued and/or a moratorium on building imposed.

City Attorney Ardaman discussed that if the City Council chose to approve the agreement and provide signatures, the time frames would move forward and that David Hamstra and the representatives of Morrison Homes were available for questions.

Discussion was held: that David Hamstra had worked with the development engineers to determine appropriate cures for the drainage issues. Mayor Rosamonda entertained a motion to approve the development agreement. It was discussed that if the Final Plat for Saxon Woods Unit III B were approved, the stop work order would be lifted; that there were specific deadlines contained in the agreement at 60 days for survey and construction plans; that after approval, permitting with DOT and the SJRWMD was estimated at six months but was not a certain time frame; that construction could begin in 9 months at the earliest with completion within three months for all improvements; and that some improvements would provide immediate relief and other would be in place for the master system.

Tina Rose, 122 Pine Valley Court, enquired of Mr. Hamstra in what order the improvements would be installed. Mr. Hamstra discussed that pumps at the retention pond would remain until the master system was in place. Ms. Rose further enquired whether there was any consideration for damages that occurred during the events to various property owners. It was discussed that the City was required to assure that regulations were met; that the City could not utilize the

agreement to address damages to the property owners; and that it was a separate issue to the duty of the City to assure future development would be done correctly.

Ms. Rose discussed that the property owners had cooperated with the City and developer to avoid litigation; that attention to residents concerns should be given. City Attorney Ardaman discussed that the agreement only addressed resolving drainage issues; that there was no cause or blame assigned to any party; that the City and the developers were releasing each other from any liability; that the City was indemnified against certain damages; that if future litigation occurred, the agreement would not allow the City to go against the developer; and that the agreement did not address potential damages to any property owner.

Ms. Rose expressed her disagreement that property damage was a separate issue. City Attorney Ardaman discussed further that attempts to address issues with individual property owners would have delayed correction of the drainage issues and preventing further problems.

Pat Wilson, 114 Pine Valley Court, discussed that she understood the purpose of the agreement but had concerns that insufficient priority would be given to property owners once the agreement was signed. City Attorney Ardaman reiterated that the release of liability was only between the City and the developers; that a third party could ask for redress if the City or either developer were found to be at fault.

Ms. Wilson stated that she wanted to make her concerns public record; that after the agreement was signed she was concerned that private citizens would not receive consideration for costs not recouped through government assistance or insurance; that some other resolution should be offered; that she did thank the City and all involved in repairing the street and also thanked CERT for their assistance during the events; and that she thanked the City for pursuing resolution of the matter.

City Attorney Ardaman also asked that David Hamstra address the time frame in which the improvements would become fully functional. Mr. Hamstra reviewed the seven improvements; that the culvert under DeBary Apartments would have a storage control; that overflow would be directed from the DeBary Apartments to Highway 17-92 to prevent flooding of buildings; that the existing outfall pipe from Saxon Woods would be extended to prevent erosion; that the water on Pine Valley Court would be connected to the lake to avoid overflow onto properties; that Pine Valley Court lake would be connected to the DOT system; that the sixth improvement would be between the Woodlands and Saxon Woods to prevent localized flooding; that lastly, a large pipe system and inlet to move water between Pine Meadow, Pine Valley and Saxon Woods to the unnamed lake near 17-92; that that large system would be working upon completion; that the other systems would require completion of the master system; that the Emergency Authorization Permit would remain in place through the next rainy season; and that it would probably be two or more years before completion of the master system.

Mayor Rosamonda entertained a motion to approve the development agreement as provided. Motion made by Council Member Fulton. Council Member Carson seconded. It was further discussed that the terms of the agreement did differ from details previously discussed; that in approving the contract, the opinion of the City Attorney would be relied upon. City Attorney

Ardaman discussed that the interests of all parties were given consideration; that it was in the best interest of the City to work with the developer as the costs would be less for a private party than it would for the City; that the mechanism allowed the developer to locate contractors willing to be part of the agreement to complete the work; and that the interests of the City were protected and allowed for enforcement of performance and for the work to commence. The motion carried unanimously.

It was discussed that the stop work order would be lifted in Saxon Woods if the Final Plat was approved.

1. Final Plat – Saxon Woods Unit III B – File No. 04-S-FPL-1055

Volusia County Planner Palmer Panton discussed the details of the Plat; that with the development agreement approved, it was recommended for approval. It was discussed when certification of the retention ponds would occur; that most were approved as built; that some retrofitting had been requested in the past; that a certification from the County Engineer would be required that all storm water systems were in place and constructed as designed or retrofitted; and that Certificates of Occupancy would not be issued before that. It was also discussed how that verification would be made, as major errors had occurred in the past; that it was necessary to rely on certifications that work was completed as designed; and that it was desirable that specific tests would be done to verify pipe systems were in place.

Mayor Rosamonda entertained a motion to approve File No. 04-S-FPL-1055 subject to County Staff conditions 1 to 6. Motion made by Vice Mayor Gunter. Council Member Fulton seconded.

John Wilson, 114 Pine Valley Court, discussed that he did not feel there was any accountability for the flooding issues and that he felt the County had not performed inspections properly.

It was discussed that lack of appropriate lot maintenance and erosion prevention during development had caused some of the flooding issues; that the City wanted weekly inspections to insure that proper maintenance was done during the development; that Morrison Homes and Early Development would be held responsible for maintenance; and that appropriate action would be taken by the City if violations occurred. The motion carried unanimously.

2. Request to Reduce/Release Code Enforcement Fine/Lien for Riverside Condo Association.

Kitty Gaw, 313 Dirksen Drive, #F-13, DeBary President of the Board of Directors of the Condominium Association appeared. Planning Administrator Gonzalez discussed the Code Enforcement process; that the process had been ongoing since 2003 for needed repairs to stairways and railings; that the work was now completed; that accumulated fines totaled \$31,750 plus approximately \$500 in administrative costs; that no property sales could be closed until some resolution was reached; and that it was recommended that the fine be reduced to administrative costs.

It was discussed that the Code violations had been safety issues and that no action had been taken in a timely manner when the first notices were issued. Ms. Gaw discussed that the Association had contracted the work; that the subcontractor had not used approved plans to complete the work; and that the work had to be re-done and additional steps had been taken to prevent future deterioration of the replacements. There was additional discussion that there was insufficient documentation; that 11 months had elapsed when the repairs could have been completed prior to the imposition of fines; and that it was enquired why the Association had not appeared before the Council before this time.

Planning Administrator Gonzalez discussed that the property had not been found in compliance until November 2004; that the Association had not had prior opportunity to appear; that the delay was caused by contractor error; and that the County representative was not available to discuss the sequence of events. It was further discussed that the error was not discovered until the inspection in May 2004; that contractor error did not necessarily relieve the Condominium Association of responsibility; that some punitive damages should be collected; and that to allow a reduction in fees, documentation should be provided to support a reduction of fines.

It was discussed that the Inspector was aware of the problem; that the time frame for construction had been approximately 12 weeks and that an 11- month period had elapsed without fully correcting the problem. Ms. Gaw discussed that the initial construction had alleviated the safety issue; that it was not until the inspection that it was found not in compliance. Ms. Gaw discussed that the Association did have ultimate responsibility; that litigation against the contractor was being considered by the Condominium Association; that they were appearing before the Council to alleviate the burden to the homeowners; and that they were a small association with limited funds.

There was further discussion of the lack of documentation of events; that a record of actions by the Association should be provided; that the first construction was completed by the May deadline and fines were imposed since the construction was not to Code; that a permit should not have been issued if the plans had not been approved; that the dates of the construction contract would be pertinent to the discussion; that proof that good faith effort had occurred was needed; and that Ms. Gaw could provide further documentation but had not been aware of what would be required.

It was discussed that the matter could be tabled to the meeting of March 2, 2005 at 7 PM. Motion made by Vice Mayor Gunter. Council Member Carson seconded. It was discussed that detailed documentation should be brought to that meeting; that Ms. Gonzalez and City Manager Courson would assist Ms. Gaw; that it was felt to be necessary that the City Council demand such proofs in any case where reduction of Code Enforcement Fines was requested in order to remain effective. Ms. Gaw discussed that she and the Board had been diligent in correcting the situation and would provide as much material as they could. The motion carried unanimously.

There was discussion of Code Enforcement action where fines and costs were imposed on another property owner; that funds were not yet collected; and that the matter would be placed on the next Council agenda.

IX. Old Business

1. DeBary Little League Facility Use Agreement.

City Manager Courson discussed that the President of DeBary Little League was not able to appear but had communicated that she would sign the agreement and take responsibility for compliance with the agreement; that the agreement specified responsibilities for both the Little League and the City; that the Coca Cola agreement was incorporated; that there were penalties for not reporting scheduling changes; and that the Little League was in favor of the agreement.

Mayor Rosamonda entertained a motion to approve the DeBary Little League Facility Use Agreement. Motion made by Council Member Tillis. Council Member Carson seconded. The motion carried unanimously.

2. Proposal for Engineering Inspection Services – Adelaide/Delespine Drainage Improvements.

City Manager Courson discussed that the project was originally approved in August 2004 and the bid awarded; that the contractor would honor the original bid amount; that he was scheduled to begin February 7, 2004; that County inspectors were not available at this time; that bids were received from PEC and from GAI Consultants; that the bid with GAI Consultants offered more services for a lesser amount; and that their contract appeared to be adequate for the scope of the inspection services.

It was discussed that the projection was 90 days total with 60 days of actual construction; that the County contract for inspection services was \$20,128 for the fiscal year; that the County had not notified the City in advance that they could not provide inspection services; that the City had not had opportunity to pursue bidding packages to include such services; that monies should be withheld from the County for the difference in cost; whether the County might be in breach of contract; that the City was committed to projects that were adversely impacted by the County's actions; that the City Manager should be directed to take that action; and that proposals would be presented in the future for the needed services.

Motion to approve the contract with GAI Consultants was made by Vice Mayor Gunter. Council Member Fulton seconded. There was further discussion of obtaining services from other providers. The motion carried unanimously.

X. New Business

1. Amateur Athletic Union (AAU) Facility use Agreement.

City Manager Courson discussed that the agreement was similar to the Little League contract with an exception for use of the concession building. Mayor Rosamonda entertained a motion to approve the Amateur Athletic Union (AAU) Facility use Agreement. Motion made by Council Member Carson. Council Member Tillis seconded. It was discussed that the contract was for field reservation and no franchise or concession operation was included and that the City had the

option to operate the concession stand if a major event was held. The motion carried unanimously.

2. City Clerk and Assistant City Manager Employment Class Description.

City Manager Courson discussed that the positions should become separate; that it was difficult to find an assistant manager to perform clerk duties; and that the clerk could backup the Finance Administrator during vacation periods. It was discussed that the volume of work at City Hall had increased; that the expanded population had increased demand for resources; that an Assistant City Manager would be able to represent the City when the City Manager had other duties; that communication with the public and Council Members should be more efficient; and that the quality of City operations would be improved.

Mayor Rosamonda entertained a motion to approve the separation of the positions of City Clerk and Assistant City Manager, creating a separate position for the City Clerk and a separate position of City Manager. Motion made by Council Member Tillis. Council Member Carson seconded. The motion carried unanimously.

3. City Manager's Goals and Objectives

It was discussed that the matter could be discussed at the February 16, 2005 meeting; that additional time was needed by some Members; that a review of tasks remaining from the previous manager and status of current issues and projects should be discussed; and that the City Manager Courson would provide a list of tasks she currently had in process in order to avoid duplication. Council Member Tillis advised that he might be delayed in attending the February 16th meeting. It was noted that the Workshop would be held before the special meeting.

4. Proposal for Enclosed Car Port at Bill Keller Park - Storage of Water Pumps and Lay Flat Hoses.

City Manager Courson discussed that two pumps on a trailer were now owned by the City; that an appropriate storage facility was needed; that in the rear portion of Bill Keller Park it would be less visible but readily accessible; and that the structure was an enclosed shed that could be secured. Motion to approve was made by Vice Mayor Gunter. Council Member Fulton seconded. It was further discussed that quarterly maintenance was performed on the pumps and that training the Parks and Maintenance personnel would be more cost effective than a private company. The motion carried unanimously.

5. Award of Bid – Replacement of Playground Equipment at Dinosaur Park.

City Manager Courson discussed \$65,000 available in the Capital Budget to replace and upgrade equipment at Dinosaur Park; that the current Park was in poor condition; that Rep Services, Inc. was recommended. Mayor Rosamonda entertained a motion to approve Rep Services, Inc. for replacement of the playground equipment at Dinosaur Park and award the bid in the amount of \$60,072.80. Motion made by Vice Mayor Gunter. Council Member Carson seconded. It was discussed that the low bid was not accepted; that the vendor was recommended due to the level

of services that the vendor would provide for the cost; and that the City Manager had confidence that the vendor would be reliable and would provide superior products.

It was also discussed that accessing the park by car required walking across Highbanks Road; that a portion of the cross street could be closed to provide parking and safer access; that it was initially intended as a neighborhood or pocket park and parking was intentionally deleted; that if the quality of the equipment was improved, there would be more use of the park; that some of the park property could be utilized for parking spaces; and that Staff could explore possible areas for safe parking areas. The motion carried unanimously.

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

1. Board/Committee Reports

2. Board/Committee Appointments

A. Board

1. Orlandia Heights Neighborhood Improvement District Director Council
Nancy McLane willing to serve

Motion was made to appoint Nancy McLane to the Orlandia Heights Neighborhood Improvement District Director Council. Motion made by Council Member Fulton. Council Member Carson seconded. The motion carried unanimously.

B. Committees

1. MPO's Citizens' Advisory Committee Representative Council
George Coleman willing to serve

Motion to appoint George Coleman to the MPO's Citizens Advisory Committee Representative Council was made by Vice Mayor Gunter. Council Member Tillis seconded. The motion carried unanimously.

2. Economic Development Advisory Committee

Member (new)	C. Rosamonda
Member T. Smith willing to serve	R. Gunter
Member L. Marks willing to serve	C. Carson
Member (new)	P. Fulton
Member B. Gigantino willing to serve	D. Tillis
Member (new)	At Large
Member D. Kitner willing to serve	City Council
Alternate (new)	City Council

Mayor Rosamonda nominated Neil Coppens, 19 Rosedown Blvd., as willing to serve; Vice Mayor Gunter nominated Tom Smith, willing to serve; Council

Member Carson nominated Leonard Marks, willing to serve; Council Member Fulton nominated Gretchen Ganas, willing to serve; Council Member Tillis nominated Diane Schaeffer, willing to serve; that Don Kitner was willing to serve; that alternates from previous terms should be changed to Members; that the Committee be allowed to recommend additional candidates; that Mr. Holly had indicated an interest in serving. Motion was made to appoint the Members as discussed; Neil Coppens, Tom Smith, Leonard Marks, Gretchen Ganas, Diane Schaeffer and Don Kitner and allow the Committee to recommend two other candidates. Motion was made by Council Member Carson. Council Member Fulton seconded. The motion carried unanimously.

3. Public Safety Advisory Committee
Member

R. Gunter

Council Member Gunter nominated Josephine Opisso. Motion was made by Vice Mayor Gunter to nominate Josephine Opisso. Council Member Carson seconded. The motion carried unanimously.

3. Member Reports/Communications

A. Mayor and Council Members

Vice Mayor Gunter discussed his attendance at the Volusia Council of Governments meeting; that they were seeking a director with city government experience; that there was discussion of concerns about cost increases for rabies shots; that there might be shortages; that there had been several recent incidents; and that he also attended the Volusia League of Cities Dinner at the Daytona Speedway. It was discussed and agreed to change the March meeting from March 2 to March 9, 2005.

Council Member Carson discussed a meeting to be held with the City Manager and Volusia County Leisure Services Manager Bill Apgar regarding the joint venture for an amphitheater with Volusia County; that \$250,000 was proposed to be contributed by the County; and that the concept would be discussed.

Council Member Tillis discussed attendance at Florida League of Cities seminar regarding dealing with government in Tallahassee and methods to communicate with State representatives to gain benefits for cities was discussed; that he felt it was extremely informative; that the prospective rail system would be beneficial; that information sharing with other communities was educational; that March 7, 2005 was a day to meet the Legislature in Tallahassee and he would like to attend; and that he also attended the meeting for the Volusia League of Cities.

Council Member Tillis also discussed seeking an agreement with the County of Volusia to notify the City before work started on specific projects; that residents had been notified that they could connect to water and sewer on Plantation

Boulevard on one side; that the opportunity should be provided to other residential areas so that appropriate infrastructure was installed; that improper disposal activity may have occurred at Spring Vista at the retention pond; and that communication should be undertaken with the County to provide comprehensive information to the City.

It was discussed that notification was required when working in rights-of-way; that a letter could be addressed to County Council Member Long; that the County had neglected to inform the City on other occasions; that County Manager Coto would be the appropriate person to contact; that the City should be involved in planning processes; that acquiring some rights to the water and sewer services could be profitable to the City and resolve other water issues in the City; and that it would be a possible objective and goal for the City.

Council Member Fulton discussed attendance at the Florida League of Cities; that he read the proclamation at Martin Luther King Day in Deltona; that he attended the today's WAV meeting; and that he would like an update on the streetscape planters. City Manager Courson noted that a letter had been sent demanding adherence to contract terms. Council Member Fulton also discussed that he would like a debriefing regarding the storms of 2004; that a comprehensive disaster plan must be developed for future use.

It was discussed that the Public Safety Advisory Committee was working on a disaster plan to be completed shortly; that a directive should be issued by the City Council of the City of DeBary to the Public Safety Committee to present an Emergency Preparedness Plan for hurricanes by June 1, 2005 with other event types to be addressed in the future; that samples from other communities were being provided to the Committee; that the directive should also address the focus of their meetings; that the next meeting was scheduled for March 8, 2005; and that Council Member Fulton would be placed on the agenda to present the directive.

Mayor Rosamonda discussed that his meetings on the MPO conflicted with his City business and that he was seeking a replacement for his MPO position. It was discussed that Council Member Tillis would take the position; that it could be a temporary substitution for two to three months. Mayor Rosamonda discussed a motion that had carried in 1998 that, upon completion of redevelopment, to rename Community Park as Robert Sullivan Park; that he had been instrumental in working with the County to build Community and other parks in DeBary; that he wished to know the desire of the current Council to honor that decision; that it appeared to be the consensus of the City Council to honor the commitment and Robert Sullivan's work; that Mr. Sullivan might prefer to use Rob Sullivan; and that he could be consulted. Motion made by Council Member Carson. Council Member Fulton seconded. The motion was clarified to reconfirm the motion made in 1998 to name the Park Robert Sullivan Park. The motion carried unanimously. It was discussed that the ball fields were named to honor Little League supporters.

B. City Attorney

C. City Manager

City Manager Courson discussed that she would be away from the office on February 18, 2005.

XII. Adjournment The meeting adjourned at 12:00 AM.

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

Carmen Rosamonda, Mayor

ATTEST:

Maryann Courson, City Clerk