

City of DeBary
Regular Economic Development Advisory Committee Meeting
Thursday
April 15, 2004
7:00 PM

Florence K. Little Town Hall
12 Colomba Road DeBary, Florida 32713

MINUTES

- 1. Call to Order - Chair Carol Lawrence**
- 2. Roll Call**

Present: Chair Carol Lawrence, Tom Donohoe, Lita Handy-Peters, Betty Gigantino, and Tracy Good.

Absent: Donald E. Kitner, Dick Tosh, and Tom Smith

Also Present: City Manager Richard Diamond, Assistant City Manager Courson, City Attorney Kurt Ardaman, Vice Mayor George Coleman and City Planner Anita Gonzalez.

Chair Lawrence discussed that Committee Member Kitner should be present later; that other Committee Members were unavoidably absent.

- 3. Approval of Minutes**

March 18, 2004 - Minutes were approved as submitted without objection.

- 4. Consideration of CRA Finding of Necessity Report
(GAI Consultants, Inc.)**

Chair Lawrence noted that many of the public in attendance had been present at the previous meeting; that the Committee had voted to have City Attorney Ardaman review the Florida Statute pertaining to CRAs, the findings of the consultant and provide an opinion. City Attorney Ardaman discussed that he had reviewed a draft report as well as a revised version prepared by GAI Consultants. It was discussed that the final report had been provided to the Committee; that revisions and comments had been made by the Attorney for GAI Consultants; and that the revisions had not been reviewed by the Economic Development Advisory Committee.

City Attorney Ardaman discussed that the revisions appeared to be minor; that prior to the creation of a CRA, the study had to be completed to determine if the criteria of the Statute were met; that an area had to be determined as either a "slum" area or a "blighted" area; that criteria for a "slum" area were not addressed in the study; and that there were findings of a "blighted" area. City Attorney Ardaman reviewed the definition for a "blighted" area and other requirements under the Statute for creation of a CRA; that the study provided information but the findings had to be made by the governmental bodies; that if a positive recommendation was made by the Economic Development Advisory Committee to the City Council, then a request could be made to the Volusia County Council to move forward with their participation; that the matter under discussion was whether the study supported that sufficient statutory criteria was present; that based on the information

provided, there appeared to be substantial evidence that the criteria has been met; that language contained in the report stated that “substantial and competent evidence” was required; that there were Florida Supreme Court decisions and interpretations of the term “substantial and competent evidence”; that if the City Council were to find that sufficient criteria were met under the Statute, it would be difficult to refute that decision; that there was a large amount of information in the study that could be used to show the statutory criteria was met; that a case could also be made that the criteria was not met; that all elements were probably not met but probably supported a basis for a Finding of Necessity; and that the Economic Advisory Development Committee had enough evidence to proceed with action.

It was discussed that there was a member of the public who had reviewed legal opinions as to the criteria; that City Attorney Ardaman had not been provided the information that refutes the report; and that the minutes of meetings are summarizations and are not a verbatim transcript of the proceeding. It was noted for the record that Committee Member Kitner had arrived. City Attorney Ardaman stated that he would be happy to hear detailed information and offer comment; that he understood the criteria definitions were debatable; that the decisions, either for or against the CRA, of the Committee, the City Council and the County Council would be given the greater consideration in measuring whether criteria was met or not.

Chair Lawrence discussed that she wished to provide opportunities for all those wishing to speak and she noted that legal counsel had been retained by the Citizens Against Redevelopment organization.

Alex Ford, 145 East Rich Avenue, DeLand, Attorney for Citizens Against Redevelopment discussed that he would speak on behalf of many of the public present; that he had provided a copy of a letter to Mr. Ardaman for the Economic Development Advisory Committee from the citizens; and that he was referring to the GAI report from February 2004. Mr. Ford discussed the intent of language in the statute referring to “slum and blight” areas; that the purpose of the terminology provided grounds for eminent domain proceedings; that definitions of the terms “slum and blight” had been revised by the State Legislature in 2002; and that his clients preferred those terms not be applied to their neighborhoods.

Mr. Ford further discussed the language of the Statute and information contained in the report; that the definition in Item 8 of the Statute for blighted area included, firstly, a substantial number of deteriorating structures; secondly, that such deterioration was leading to economic distress or endangering life or property; and that the third requirement was that two of the categories lettered A to N had to be applicable. It was discussed that some of the categories did appear applicable although somewhat innocuous; that the first two requirements had to be present before those additional categories could be considered. It was discussed to allow Mr. Ford to complete his presentation and then address specific items for further review.

Mr. Ford enquired for the date of the most recent study. Doug Kelly discussed that the February report was the latest release to the Committee and the public; that comments and evaluations by their Staff Attorney as well as references to court cases and corrections to typographical errors were provided with the copy given to City Attorney Ardaman; that the version had not been released pending further revisions; and that the February report was provided on the City’s Website.

Mr. Ford discussed that he could address each item of the report; that the intent of the Statute had to be considered rather than just a literal interpretation; that a commitment by current government to protect residential property from eminent domain proceedings could be overturned by subsequent government; that since residential lots would fail to meet commercial zoning requirements, they should not have been included in the study area; that language in the report regarding faulty lot layout could be challenged as none of the listed criteria categories had language referring to failure to meet zoning lot size requirements; that unrecorded subdivisions were not illegal as referenced in the report as they were legally exempt by Ordinance; that non-conforming lots as referenced in the report due to width were not applicable as defined in the Statute; that businesses defined as non-conforming to zoning should not be considered as the Statute did not reference non-conformity with zoning as a blight factor; and that language in the report was not sufficient to meet the definitions in the Statute.

Mr. Ford next addressed the heading of public safety; that crime was generally higher in commercial areas; that residential studies should be separate from commercial studies; that the crime statistics used were selective; that statistics for emergency response calls should also be distinctive between residential and commercial areas; and that the heading for infrastructure and language referring to septic systems and drinking wells was not adequate to the definitions of the Statute. It was discussed at this time that forecasting or anticipating problems with contamination of groundwater was a proactive and legitimate concern; that the language of the Statute required that the condition would be already present; that the Statute could be interpreted to allow for proactive measures; and that the intent could be debated on the issue.

Mr. Ford further discussed that there was no information in the report to tie into the required categories; that the issue of non-residential property ownership and lease rates as included in the study were not pertinent to the Statute; that the Statute as it addressed Property Appraiser assessed values defined aggregate values; that the study used selective and limited analysis to arrive at a figure and therefore did not meet criteria; that comparisons of lease rates included in the report did not meet the requirements of the Statute; that lease rates were not shown to be falling; that criteria used in the study regarding inadequate street layout did not meet the definitions of the Statute; and that driveway widths, buffers and on-site inadequacies should not be included as street layout issues.

Mr. Ford discussed that faulty lot layouts as referred to in the study did not meet the criteria; that size, adequacy, accessibility and usefulness were the requirements; and that unpaved parking lots, lack of cross access and lack of buffers between residential and non-residential did not meet the Statute criteria for faulty lot layout.

Mr. Ford addressed unsafe and unsanitary conditions; that such conditions did not currently exist; that potential conditions did not qualify under the Statute; that Code Enforcement violations referred to again did not meet Statute criteria as violations of Florida Building Code. Mr. Ford further discussed site or improvement deterioration; that the Statute referred to deterioration of sites and deterioration of structures as separate items; that the study combined the two types and was not appropriate; that of the structures noted as deteriorated, none were shown to be leading to economic

distress or endangering life or property as required in the Statute; that the number of structures referred to were not substantive; and that deteriorating sites were not sufficient to meet the Statute.

Mr. Ford summarized that the report did not find sufficient criteria as defined under the Statute; that the study was not adequate to find the area as blighted; that resident concerns were justified; and that properties might be devalued.

City Attorney Ardaman discussed that the obligation of the Economic Development Advisory Committee was not to determine whether the criteria of the Statute were met; that their purview was to consider whether the report was sufficient to recommend to the City Council; and that they could request additional analysis, study or supplement by the consultant. It was discussed that the Committee had been charged to interview and recommend to the City Council a firm to perform the study; that the opinion offered by Mr. Ford was that the Study did not give adequate findings for blight.

Chair Lawrence discussed the appendix of the Statute; that there were some examples within the City that could support the findings; that the primary concentration was within the downtown corridor; that, at one time, it had been considered to include the entire City in the study area; and that no one area was deliberately singled out for the study. There was discussion that the Statute was the governing tool; that there were other procedures available to the City to resolve redevelopment issues; that the revised study provided to the City Attorney had not yet been reviewed by the Economic Development Advisory Committee or the public; that it provided additional reason not to recommend the creation of a CRA to the City Council.

There was further discussion that the City Council would make the final decision as to this matter; that the Economic Development Advisory Committee, in addition to recommending the firm to conduct the study, had been charged with forwarding the report if the firm found that the criteria for a CRA existed; that the Statute did not require that the Economic Development Advisory Committee to take action; and that the City Council had charged and directed the Committee with this task and action on the report was within their purview.

There was further discussion of local areas that had undergone similar studies; that there were areas that had not qualified under the Statute. There was further discussion that Mr. Ford disputed that the findings of the Study met the definition of blight under the Statute; that the charge of the Committee was to determine whether the report had merit to recommend to the City Council; that Mr. Ford asked that the report be sent to the City Council for determination; that the Committee should not make any findings; that there could be positive results from a CRA but the size of the CRA area could negatively impact the financial position of the City; that available funds for other areas of the City would be curtailed as CRA funds could only be expended in the CRA area; and that it had been determined to minimize the CRA area in order to provide sufficient funds to the General Fund.

The response from the business community regarding the CRA was discussed as compared with the residents' response; that to Mr. Ford's knowledge there appeared to be opposition from the business community; that there was widespread concern that Eminent Domain could occur; that future City Council could not be bound by the decisions of the current government; that it was not probable that the highest percentage rates for tax increment financing would be allowed by the County; that it

was unlikely there would be sufficient funds for Eminent Domain undertakings; and that fear of such occurrences could also impact property values.

Doug Kelly with GAI Consultants, 618 E. South Street, Orlando, Florida discussed revisions to the report; that Attorney Lonnie Groot had added comments and suggestions; that changes included clarification of grammatical errors, reference to court cases and additional legal language related to the Finding of Fact; that additional items were provided to the substantiate findings; that there were no deletions; that a copy had only been provided to Attorney Ardaman; that there had not been sufficient time to submit to the Committee; and that a strikethrough copy showing specific amendments could be provided also.

Mr. Kelly responded to comments by Mr. Ford; that the report section titled Findings of Fact provides an overview and compares what was viewed to the section A to N criteria of the Statute; that specific items that did not meet the required criteria were not included in that section; that the Findings of Fact would be the determining points; and that the background material was the majority of what was addressed by Mr. Ford. Mr. Kelly discussed that criteria used for Public Safety were appropriate; that Public Safety statistics were provided by the Sheriff's Office; that the proportion of the crime was measured and was not an indication that DeBary had high crime statistics; that flooding issues were current problems; that the emphasis should have been on the Finding of Fact portion of the report; that any consultant could find similar criteria; and that if any errors or omissions had occurred, they would be corrected at no additional cost to the City. Mr. Kelly further discussed that GAI had been hired to perform the study and had done so to the best of their abilities.

It was discussed that GAI had not been involved previously in any other CRAs in Volusia County; that it was enquired what reaction had been received from communities that GAI had dealt with. Mr. Kelly discussed the Sanford CRA where the Town Center Mall was constructed; that it had been desired by the City of Sanford and by the community; that the decision to include residential areas in the boundaries had been done in order to offer the opportunity to provide improvements to that area; that it was the decision of the City government whether to move forward; that the Statute allowed the criteria as included in the study; and that the study was done by GAI as they were hired to do.

It was discussed whether the residential areas could be excluded; that one of the criteria would be eliminated if that occurred; and that there would still be sufficient criteria to include the downtown corridor. There was additional discussion that, if review by another firm was desired, GAI would make their information available to that firm.

City Attorney Ardaman was asked what other mechanism might be available to the City to accomplish the desired goals other than through a CRA. Attorney Ardaman replied that he would have to research specifics; that there might be other means such as grants and alternate funding mechanisms; and that a listing could be prepared for comparison.

Jeff Ganier, an out-of-state DeBary property owner, discussed that he would have been deterred from purchasing DeBary property if a blighted area had been declared; that he felt that there were errors in the CRA report; that the report referred to the intent to focus on existing development

deficiencies only; that reference to crime statistics did not appear to be accurate; that DeBary had very low crime statistics; that tables in the report were not appropriate representations; that statistics for inadequate roads were not accurate as they included private roads; that septic systems would not be a hazard if properly maintained; that wells could be safer in some instances than public water supply; that proactive solutions to problems were appropriate; that findings of non-conformance in the report were minimal; that Code Enforcement issues in the report were not applicable to residential areas; that the Code Enforcement process was a sufficient tool to correct these deficiencies; that a CRA was not necessary for DeBary; and that other options should be explored.

It was discussed that no costs were available as to the preparation of a CRA master plan, as there were several additional steps that would have to occur before any plan could be created or implemented; that CRA revenue scenarios were provided on the website based on projected growth. Mr. Ganier discussed further that there were other options to fund improvements; that the negative connotation of blight would adversely impact property values; that Eminent Domain proceedings could occur under future administrations; and that he strongly opposed the CRA.

There was discussion of the crime ratios; that the tables in the report showed greater incidences within the CRA area as opposed to the overall City area. Attorney for the Citizens Against Redevelopment Alex Ford discussed that he had addressed the Findings of Fact in the letter provided to the Economic Development Advisory Committee and Attorney Ardaman; that all classes of crime should have been included; that the categories used were selective; and that crime in the commercial areas would necessarily be higher and influenced the results of the Study.

Speakers who had submitted cards were heard at this time.

Norm Erikson, 15 Azalea Drive, discussed the Strategic Vision of the City of DeBary and quoted portions of the Economic Development Advisory Committee minutes of the June 7, 2003 meeting where prospective consultants for the study were interviewed; that public input did not seem to have been solicited; that sufficient information had not been provided to residents; that he did not agree with the designation of blight; and that he preferred to pursue options other than the CRA for necessary improvements.

Chair Lawrence addressed that initially, concentration had been on the downtown area; that none of the consultants at the time of the interviews had in-depth information regarding DeBary; that it had not been discussed to include residential areas until the boundary maps were presented; that it had been discussed whether it was beneficial to include the entire City in the CRA boundaries; and that notification had been sent to business owners and commercial property owners prior to the presentation of the boundary map.

Cassandra Albrecht, 19 Volusia Drive, discussed that the information regarding the CRA should have been included in the City newsletter; that information should have been provided to residents; that she had concerns that Eminent Domain proceedings might occur under a CRA; that she preferred the current character of DeBary; and that other options should be pursued.

Patti Colston discussed that she was opposed to her home being included in the CRA area; that other alternatives to a CRA should be pursued.

Gertrude DeSantis, 161 Maple Drive, discussed that she felt the CRA study was not proven; that other options for improvements should be pursued; and that she was opposed to the CRA. It was discussed that CRA tax increment financing would still allow current taxes to remain in the General Fund; that only taxes realized from increased property values would be retained for use within the CRA district. Ms. DeSantis discussed further that grants should be pursued to address septic, drainage and groundwater issues.

It was discussed that there had not yet been a decision to create a CRA; that the study was providing findings of fact only; that a vote would be held and a recommendation might or might not be made; that it appeared that sufficient information was contained in the report; and that the issue was positive in the aspect that a great deal of community participation had been generated. It was further discussed that the approval of the Economic Development Advisory Committee was not required for the creation of a CRA; that the Committee was performing the task of review on behalf of the City Council. Ms. DeSantis reiterated her opposition to the CRA.

There was additional discussion that the Committee had been charged with the review of the report; that a great deal of information had been brought to light in the course of the meeting.

Mayor Carmen Rosamonda, 21 Rosedown Boulevard, discussed his respect for the citizens and their opinions; that he apologized for any lack of communication with the residents; that initial consideration of a CRA had been proposed primarily for the 17-92 corridor and communication had been focused there; that the inclusion of residential areas had not been anticipated; that he did not necessarily agree with their inclusion but there were possible benefits; that there were many improvements needed along the U.S. Highway 17-92 corridor; that his primary concern was the financial stability of the City; and that expenses for certain types of improvements were beyond the financial ability of the City.

Mayor Rosamonda discussed further that the City enjoyed one of the lowest millage rates in the County with an efficiently-run City Staff; that many of the issues in the City had been inherited from the County when the City incorporated; that the City would be limited to a population of 25,000 due to its geographical size; that storm water and repair expenditures were threatening to outstrip resources in the near future; that the Comprehensive Plan of the City governs all development adjustments and uses; that the Comprehensive Plan would govern the CRA; that the Comprehensive Plan would overrule if conflicts occurred with any CRA plan; that a small town community was still the vision for the City; that population growth created a need for appropriate development to encourage a town center area; and that condominiums, apartments and low income housing were prohibited by the Comprehensive Plan.

Mayor Rosamonda also discussed the desire for beautification of the Highway 17-92 corridor; that much will be accomplished with lighting and landscaping; that the widening of U.S. Highway 17-92 had an adverse impact on the character of the downtown area; that Gateway Standards had been developed to improve the overall appearance of Highway 17-92; that the Economic Development Advisory Committee had been created to support the business and commercial areas; that they had been asked to inventory available commercial properties and promote businesses in order to provide commercial support to the residents; that the decision to explore the possibility of a CRA was

generated by successes that had occurred in other areas; that it was the hope of the CRA to provide economic assistance to improve the City without putting an additional tax burden on residents; that extensive research had been done in areas that had utilized a CRA; that the focus and intent had been on the business and commercial corridor; and that residential areas could be excluded from the CRA boundaries.

Mayor Rosamonda further noted that he respected and understood the different legal interpretations of the Statute; that the goal of the CRA would be to create a partnership with the County; that investing in business development and business infrastructure was his vision; that broad interpretation of the Statute was necessary due to the diversity of communities throughout Florida; and that he would provide a list of local communities, such as downtown DeLand, that had successfully used the Statute for improvements. He further discussed the steps that would still be necessary before a CRA could be created; that the Statute required that the CRA master plan shall conform to the Comprehensive Plan; that changes to the Comprehensive Plan could not be justified to allow multi-family dwellings; and that the City Council was committed to low density residential areas.

Mayor Rosamonda discussed accountability; that the County would oversee that there were no changes made to any CRA implementation plan; that the County could not change zoning or the Comprehensive Plan; that changes to land uses or zoning had to be applied for by a property owner; that lots on U.S. Highway 17-92 were not adequate for current storm water and tree preservation permitting requirements, that owners would be limited in developing or selling those properties; that a CRA in the downtown corridor could provide financial incentives to resolve those issues; and that loss of use and property values were of great concern.

Mayor Rosamonda reiterated that residential areas could be excluded; that he hoped that consideration would be given to the opportunities for the U.S. Highway 17-92 corridor; that new business could support current business and improve quality of life for residents; that there was the possibility of generating \$10 million to \$32 million of revenue over 20 years; that County taxes that would be spent in other communities could be retained for the benefit of DeBary; and that deficiencies created by County management prior to the incorporation of the City could be rectified.

Mayor Rosamonda responded to enquiries that if the City Council determined that residential areas would be included in a CRA, a mechanism existed whereby Eminent Domain proceedings could not be used on residential properties at any time in the future; that if the County approved a CRA that condition could be imposed in governing the CRA and mandated by the CRA master plan; that there was no intent to develop or pursue Eminent Domain on residential properties; and that statistically governments would pay well in excess of property values for properties obtained by eminent domain due to the requirement that the government must pay the cost for legal fees of both parties. Mayor Rosamonda answered further enquiries regarding changes to uses imposed by the Village Overlay zoning classification; that the Village Overlay area had been approved prior to his election to the City Council; and that the City Council would be holding workshops to review those issues. Mayor Rosamonda addressed additional enquiries and thanked the Economic Development Advisory Committee for their service.

Chair Lawrence discussed that a vote of the Economic Development Advisory Committee would be taken; that the City Council would make any final determination; that the Committee was acting in an advisory capacity; that the process was still in the beginning phase; that it appeared to be a consensus that residential areas would be excluded; and that growth in DeBary would continue to occur; that exploring options to control growth was necessary.

Chair Lawrence entertained a motion to forward the report to the City Council with a recommendation and that the Findings of Necessity existed in the report. Motion was made by Committee Member Donohoe that the report not be recommended to the City Council. Committee Member Kitner seconded. There was discussion that information presented had influenced much of the decision process; that a CRA could be a valuable tool; that more study and refinement was needed; and that the community was becoming divided over the issue. There was further discussion that it was not clear that the details of the report were adequate; that the emotion and temperament of the community was a concern to all of the Committee members; that it had not been known when the study was implemented that residential areas would be included; that much consideration had been given to the selection of a consultant; that redevelopment options had been discussed other than a CRA; and that the Economic Development Advisory Committee would welcome involvement and participation by the public to explore alternatives and options to improve the City.

Verna Perry, 18 South Shell Road, discussed that any information on future plans should be provided to the public.

Chair Lawrence called for a vote on the motion that a recommendation not be forwarded to the City Council to put a CRA into effect. The motion carried unanimously. It was discussed that the City Manager and the City Attorney would work to provide information on alternatives for obtaining funds for City improvements.

5. Other Business

6. Adjournment The meeting adjourned at 11 PM.

**APPROVED May 20, 2004
CITY OF DeBARY
Economic Development Advisory Committee**

Carol Lawrence, Chair