

City of DeBary
CITY COUNCIL MEETING
Wednesday
March 18, 2009
7:00 PM
City Council Chambers
16 Colomba Road
DeBary, Florida 32713

MINUTES

I. Call to Order

Mayor Garcia called the meeting to order at 7:05 p.m.

II. Roll Call

Members Present: Mayor Bob Garcia, Vice Mayor Norman Erickson, Council Member Van Conoley, Council Member Jack Lenzen, and Council Member Leonard Marks

Others Present: City Manager Maryann Courson, Assistant City Manager Anthony Gonzalez, City Clerk Stacy Tebo, and City Attorney Kurt Ardaman

III. Public Participation For Any Issues Not On the Agenda - Citizen comments are limited to three minutes per speaker.

Jeff Morosetti, 307 Alexandra Woods Drive, stated that the Hazard Mitigation Grant Program funding has been reduced by the State, which greatly affects the FEMA Buyout Program.

David Camporese, 35 Jasmine Drive, asked for an update on the DeBary Downs project. Mayor Garcia answered that the Council is unable to discuss it because there is pending litigation, and the transcripts would be released when the case is closed.

Gertrude DeSantis, 161 Maple Drive, voiced concern that the DeBary POP website is a violation of the Sunshine Law because it is run by Vice Mayor Erickson and Council Member Marks. Mayor Garcia responded that the City received a legal opinion in February of 2008 from the Florida Attorney General's office. Mr. Ardaman added that as long as there is not a discussion between the two Council members, there is not a statutory prohibition per the Attorney General.

John Likakis, 38 Seminole Drive, said the handicapped parking space in front of the City Hall is facing the wrong direction. He explained that he started providing summaries of the Council meetings on the DeBary POP website to provide information to the citizens, and there have been no violations of the Sunshine Law.

IV. Approval of Minutes

1. Regular City Council Meeting held January 7, 2009.

Council Member Marks made a minor correction to page five. Mayor Garcia suggested a change on page four and entertained a motion for approval of the minutes as amended. Motion made by

Vice Mayor Erickson and seconded by Council Member Lenzen. The motion passed unanimously.

V. Additions, Deletions, or Amendments to the Agenda

Vice Mayor Erickson stated that at the request of the applicant, item nine was removed from the agenda.

VI. Presentations

1. Certificate of Recognition to Nancy Diane Morris, DeBary Elementary School's Nominee for Teacher of the Year.

Mayor Garcia read aloud the certificate of recognition and presented it to Ms. Morris. Ms. Morris thanked the Council and said it was an honor to serve the community in which she lives.

2. DeBary Volunteer Firemen's Association – Station 33.

Marc Kovacs, representative of the Volunteer Firemen's Association, asked the City to consider construction of a new fire station due to the poor condition of the building and outlined the needed repairs. He noted that if winds exceed fifty miles per hour during a storm, the fire station must be evacuated. He stated that there are new grants available through the federal stimulus packet for the construction of new fire stations. He estimated a cost of \$2.5 million for a new station and \$4 million for a total public protection complex, which might include space for the sheriff's department.

3. Presentation by Dr. Harvey Harper with Environmental Research & Design (ERD) Regarding the Lake Monitoring Program.

Dr. Harper said that since December of 2007, the City has performed quarterly water monitoring in thirty DeBary lakes. He stated that the purpose of the monitoring program is to evaluate the health of the lakes in terms of recreational uses and to contribute to a database to evaluate water quality trends. He explained how the monitoring is done and said that measurements are taken for pH, dissolved oxygen levels, temperature, conductivity, alkalinity, and trophic state.

Dr. Harper noted that Tropical Storm Fay caused the majority of the water quality problems. He added that twenty to twenty-two of the lakes are in very good shape, five are in moderate shape, and a few are in poor shape.

Ms. Courson explained the State's Total Maximum Daily Load (TMDL) program to the Council and noted that restrictions would be tightened in the near future.

4. Presentation by Tom Blawn, President of Neighbors for a Better DeBary.

Tom Blawn and Mary Shoup Love introduced themselves and thanked the Council for allowing them to speak at the meeting. Mr. Blawn stated they are concerned about the future of the DeBary, and changes to the code are necessary to prevent exploitation of DeBary by developers.

Ms. Love said that it is a good time to consider changes because the City is in the process of considering EAR based amendments to the comprehensive plan. She added that she would like

to see provisions placed in the municipal code to address gambling with distance requirements similar to those for adult entertainment.

The Council agreed to schedule a comprehensive plan workshop on March 25th at 6:00 p.m.

VIII. 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. Ordinance #01-09- First Reading – Creation of the Riviera Bella Streetlighting District.

Mr. Ardaman read Ordinance #01-09 aloud by title.

Council Member Marks noted an inconsistency in the estimates on page two and questioned the stated total of 207 parcels in the district.

Ms. Tebo said that the estimates were obtained from Progress Energy, and she would review the numbers again to ensure they were accurate. She explained that unit one was replatted, and the correct number of parcels is indeed 207.

Mayor Garcia entertained a motion for approval. Motion made by Vice Mayor Erickson and seconded by Council Member Lenzen. The motion passed 4-1, with Council Member Marks dissenting.

2. Ordinance #02-09 – First Reading – Prohibiting Illicit Discharge into the City's Stormwater System and Reapplication of Pollutant Discharge Elimination (NPDES) System Permit – Phase II.

Mr. Ardaman read Ordinance #02-09 aloud by title.

Mr. Gonzalez explained that violations would be handled like other code enforcement violations.

Council Member Lenzen asked Mr. Gonzalez to explain the permit cost.

Mayor Garcia entertained a motion for approval. Motion made by Vice Mayor Erickson and seconded by Council Member Marks. The motion passed 4-1, with Council Member Conoley dissenting.

IX. Growth Management and Development Review

1. Request for Administrative Future Land Use Map Change – Empire Cattle.

This item was removed from the agenda at the request of the applicant.

X. Old Business

None.

XI. New Business

1. Discussion of Interlocal School Concurrency Agreement by Council Member Conoley.

Council Member Conoley spoke about the education crisis in the United States. He stated that he is not satisfied that the City should be signed onto concurrency; that the City could sign off from the ordinance previously approved by Council; that he would like the city attorney to prepare a letter to the Department of Community Affairs (DCA); that the letter should state that the City is not happy with the school system and is considering removing its name from the interlocal agreement; and that DeBary does not have a middle or high school. He made a motion for Mr. Ardaman to prepare the letter.

Vice Mayor Erickson seconded the motion for discussion. He said that the reason for concurrency was because cities did not have a level of service, and the idea was to get cities working with the School Board, so there is not overcrowding in the schools. He questioned the benefits and consequences to DeBary if the City did remove itself from the interlocal agreement.

Mr. Ardaman clarified that potential consequences might include reduced funding to both the School Board and to the City.

Council Member Marks stated that there is very little accountability with the School Board, and the City has given up a lot of power.

Council Member Lenzen said that although he did not like the agreement, they should not remove DeBary; that DeBary is almost built out; that DeBary is not in a bargaining position, and there would not be a benefit to the citizens; and that the School Board would interact with the City if it proposed a big development.

Mayor Garcia stated that the City should not send a letter to DCA; that if the school system is penalized, it would not be helpful to DeBary children; and that without an interlocal agreement, DeBary would not get a new school built in the City.

Council Member Conoley said that money is being misspent by the School Board; that too much is going into administration; and that he wants better public education.

Council Member Lenzen stated that the interlocal agreement has nothing to do with the budget, and in the end it will do the City more harm than good to remove itself.

Mayor Garcia called for a vote on the motion made by Council Member Conoley. The motion failed 2-3, with Mayor Garcia, Vice Mayor Erickson, and Council Member Lenzen dissenting.

2. Discussion of Roberts Rules of Order by Council Member Conoley.

Council Member Conoley discussed Roberts Rules of Order. He asked how long a Council member is allowed to speak on any particular item. He suggested that they could state the time limit before discussion begins on an item.

Mr. Ardaman said that Resolution #08-01 adopted the tenth edition of Roberts Rules of Order, which does include a provision for time limits. He briefly explained the procedures.

Mayor Garcia read aloud a statement regarding an alleged violation of the Sunshine Law.

Mayor Garcia asked Mr. Ardaman if he felt it appropriate to forward a letter to the Attorney General. Mr. Ardaman responded that any citizen may file a complaint with the Ethics Commission as an individual, and it would not be something that the Council would do as a whole.

XII. Council Member/Committee/Staff Reports

1. Board / Committee Appointments

Strategic Planning Steering Committee

Ann Batson
Keith Bradshaw
David Dougherty
Jim Gangitano
Robert Knott
Dolores Lukomski
Rick McBride
George Morgan
Don Neyer
John Wanamaker

Mayor Garcia said the list is not inclusive, and he is aware of thirteen individuals that are interested in serving on the committee.

2. Member Reports/Communications

A. Mayor and Council Members

Vice Mayor Erickson updated the Council on the technical advisory committee for commuter rail and said that there is a meeting scheduled between Florida Power & Light and FDOT at the end of the month. He added that he would like to obtain the minutes for the committee meetings.

Vice Mayor Erickson suggested that the June newsletter contain pre-hurricane and post-hurricane instructions for residents. Mayor Garcia said he has been working with Safety Coordinator Alan Williamson on providing hurricane safety information in the May newsletter.

Vice Mayor Erickson discussed the plans for the strategic planning steering committee with Mayor Garcia.

Council Member Marks updated the Council on WAV and advised everyone to conserve water the best they can. He noted that WAV's upcoming budget includes two field enforcement officers for water violations. He said that DeBary's share would be \$17,813, which is an increase of approximately \$13,000 from last year.

Council Member Marks made a motion for the City to continue participation in WAV. Vice Mayor Erickson seconded. Council Member Lenzen said he would like to stay in WAV, but he does not support doubling the contribution. The motion passed 3-2, with Council Member Lenzen and Council Member Conoley dissenting.

Council Member Conoley made a motion to extend the meeting for one hour. Vice Mayor Erickson seconded. The motion passed unanimously.

Council Member Marks asked Mayor Garcia to explain the rally in Tallahassee on April 1st. Mayor Garcia clarified that he would be attending to support Volusia Days and to discuss various issues such as State mandates and commuter rail. He added that the rally was not just for the school funding issue.

Council Member Conoley spoke about an incident that occurred at City Hall the previous week between himself and Mayor Garcia.

Council Member Lenzen informed everyone that the MPO meeting would be held the following Tuesday to prioritize the stimulus projects.

Mayor Garcia informed the Council that the CERT class graduation was held the previous evening, and they are working on starting a new class. He spoke about the national flood insurance program and noted that two-thirds of Floridians do not have flood insurance. He voiced concern regarding a few proposed bills that the Legislature is considering.

Mark Meister, 146 Pine Tree Drive, voiced his dissatisfaction with the behavior exhibited during the meeting and stated the Council should work together.

B. City Attorney

Mr. Ardaman had nothing to report.

C. City Manager – Reschedule April 1st Council Meeting.

Mayor Garcia asked the Council when they would like to schedule the meeting. Vice Mayor Erickson made a motion to hold the meeting on April 2nd at 7:00 p.m. Council Member Lenzen seconded. The motion passed unanimously.

XIII. Adjournment

The meeting adjourned at 11:30 p.m.

**APPROVED July 1, 2009
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk