

City of DeBary
CITY COUNCIL MEETING
Wednesday
May 20, 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 7:00 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: Acting City Manager Anthony Gonzalez, City Clerk Stacy Tebo, Finance Administrator Jimmie Seelbinder, and City Attorney Kurt Ardaman

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

Donald McGrath, 116 Lower Lake Court, stated that the former administration made mistakes during Tropical Storm Fay and asked the Council to consider a stipend for the flooded residents.

Rosemarie Gedney, 420 Heatherton Court, asked when the Council would discuss the Sheriff's contract with the City. Mayor Garcia answered that the Council would discuss it at the first budget workshop in June. Ms. Gedney asked if her homeowner's association could be placed on a list for a reserved pump. Mayor Garcia responded that staff is monitoring the rainfall and the need for pumps.

IV. Approval of Minutes

1. Regular City Council Meeting held February 4, 2009.
2. City Council Workshop held February 12, 2009.

Mayor Garcia entertained a motion for approval for both sets of minutes. Motion made by Vice Mayor Erickson and seconded by Council Member Conoley. The motion passed unanimously.

V. Additions, Deletions, or Amendments to the Agenda

Stormwater Engineer David Hamstra addressed the Council and recommended that items three and four under New Business be deleted from the agenda. Vice Mayor Erickson made a motion to remove items three and four from New Business. Council Member Conoley seconded. The motion passed unanimously.

Council Member Conoley, Council Member Marks, and Vice Mayor Erickson voiced dissatisfaction with the draft interlocal agreement with Volusia County for joint use of the borrow pit.

Vice Mayor Erickson asked that they add a discussion of a forensic audit under New Business.

VI. Presentations

1. Range Riders Presentation by Richard Kelton.

Mr. Kelton explained that the Range Riders are comprised of retired city and county managers; that they provide free services to cities and counties in need of new managers; that they are an adjunct to the Florida City and County Managers Association; and that the two primary functions are guidance to young managers and small cities, and assisting Councils or Commissions in the screening process as they seek to fill manager positions. He said he could review all the resumes the City receives, evaluate them against the job criteria, and create a shortlist for the Council.

Council Member Conoley stated that he felt the Council should shortlist the applicants. Mr. Kelton noted that the Range Riders would provide the Council a list of eight to ten people. Mayor Garcia thanked Mr. Kelton and asked him to leave his business card with the City Clerk.

2. Stormwater Update by David Hamstra of Professional Engineering Consultants, Inc.

Mr. Hamstra gave an unofficial bid summary of the West Side Emergency Flood Management System. He noted that the City's portion would be much less than originally anticipated because the low bid was \$4.5 million.

Mr. Hamstra presented information on the significant May rainfall, the lake monitoring, the overall pumping deployment plan, and the areas of interest. He noted that pumps have been set and provided updates on the rainfall from May 12th to present. He stressed that the City is being proactive in ordering pumps.

Mr. Gonzalez informed the Council that he asked Briar Corporation for a proposal to perform various stormwater related activities in an effort to be proactive. He stated that they need to set a twelve-inch pump at Quail Lake and Lower Lake; that another pump needs to be realigned at Twin Lake; that they need to install a dry line in No Name Lake to eliminate the need to dig it out later when the ground is wet, but it would cost no more than \$10,000; that the City does not have equipment to move the heavy pumps and hoses; and that he is asking Council to approve the proposal for \$62,407 plus the installation of the dry line at No Name Lake.

Mayor Garcia noted that the Code of Ordinances allows the city manager to spend up to \$5,000 without Council approval and asked the other Council members to give Mr. Gonzalez the authority to respond to the rainfall and take measures to ensure the safety of the residents.

Finance Administrator Jimmie Seelbinder outlined the costs of the pump rentals for the Council.

Delores Lukomski, 204 Lourdan Court, stated that the Council has remained committed to resolving the stormwater problems and thanked them for their support.

Mary Shoup Love, 345 McLaren Lane, said that she is proud to live in DeBary and praised Briar Corporation for their immediate response to the rainfall.

Vice Mayor Erickson made a motion to approve the \$62,407 proposal from Briar Corporation plus the cost up to \$10,000 for the dry line at No Name Lake. Council Member Marks seconded, and the motion passed unanimously.

Council Member Lenzen stated that staff should rent the pumps by the month instead of by the day. The other Council members agreed.

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. 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 item:

1. Resolution #09-06 – Approval of Loan Agreement for Stormwater Funding.

Mr. Ardaman read Resolution #09-06 aloud by title.

Finance Administrator Jimmie Seelbinder introduced the City's financial advisor, Craig Dunlap, to the Council. Mr. Dunlap stated that he prepared a request for proposal for the five million dollar loan and sent it to twelve banks; that he only received two bids, which were Regions Bank and Wachovia Bank; that he had asked for a twenty-year fixed rate loan; that Regions proposed a five-year rate and Wachovia gave a fixed rate for seven and a half years; and that he recommended the City accept the Wachovia bid for a rate of 4.05%.

Todd Morley, representative of Wachovia Bank, stated that he refreshed the rate earlier in the day; that it is still 4.05%; and that the rate is not locked in. He reiterated that the offer is a seven and a half year loan with a twenty-year amortization, and the rate could be locked in once the City Council approves the resolution.

Council Member Conoley voiced displeasure regarding the proposal from Wachovia Bank and questioned Mr. Morley. Mr. Seelbinder explained the amortization schedule to Council Member Conoley.

Council Member Conoley suggested that the City refuse both bids and that the Council give direction for the City Manager to seek other options.

Mr. Seelbinder stated that he had tried to find alternative ways to obtain the funding, and he even considered a bond issue.

Mr. Morley stated that the market has changed considerably since the City borrowed the first five million, and there is no way that the City can obtain a twenty-year loan at the current time.

Mr. Dunlap explained the debt service and what would happen at the end of the seven and a half years to Vice Mayor Erickson. He added that if the City does not accept Wachovia's offer, they would run the risk of not getting any more bids. He stated the City is fortunate to get what they were offered during this credit crunch current market. He explained that if the City were to do a bond issue for twenty years, the rate would be fixed; that the cost would be \$125,000 to \$150,000; and that the rate would probably be 5.5 to 5.75 percent, and possibly even six percent. He advised the City to accept Wachovia's proposal.

The Council discussed the need to obtain the funding to complete the stormwater projects. Council Member Lenzen stated that the City must accept Wachovia's offer.

Vice Mayor Erickson moved to approve Resolution #09-06 and to allow the bank to lock in the 4.05% rate the following day. Council Member Lenzen seconded. The motion passed 4-1, with Council Member Conoley dissenting.

IX. Growth Management and Development Review

1. Request for Extension of Preliminary Plat for Lake Ridge Townhomes.

Alan Watts, representative for Tim O'Neill, stated that the reason for the request lies with the current market conditions. He noted that traffic has decreased under DOT statistics on US Highway 17-92 and Highbanks Road over the last year. He added that he checked with the School District, and postponement of the development brings the completion closer to the opening of high school DDD in Orange City. He informed the Council that Senate Bill 360 is currently on the Governor's desk, and it provides that any permit or development order issued between September 1, 2008 and January 1, 2012, is extended and renewed for a period of two years from its current expiration.

Vice Mayor Erickson asked Mr. Ardaman if there were any conditions for consideration. Mr. Ardaman answered that the Land Development Code does not list specific criteria in determining the approval of the extension. He added that Senate Bill 360 has passed both houses, and if the Governor does not veto it within a certain number of days, it becomes law. He said that the bill would have an extensive and comprehensive affect on numerous development orders because it provides for a two-year extension, which the applicant is entitled to provided they give notice.

Vice Mayor Erickson made a motion to extend the preliminary plat for 360 days. Council Member Lenzen seconded, and the motion passed unanimously.

X. Old Business

1. Impact Fees for the New City Hall.

Mr. Gonzalez said he received a letter regarding the fees from Volusia County. He stated that a person approached Mr. Seelbinder offering to sell the City his impact fee credits for ninety cents on the dollar.

Mr. Ardaman suggested that there might be other people holding credits and that Council might want to give Mr. Seelbinder and Mr. Gonzalez authority to negotiate on behalf of the City.

Council agreed that they would like Mr. Seelbinder to explore the options of others that might have the adequate credits to pay the impact fees.

Council Member Conoley made a motion to allow Mr. Seelbinder and Mr. Gonzalez to act as the agent of the City and negotiate the impact fee credits. Vice Mayor Erickson seconded, and the motion passed unanimously.

XI. New Business

1. Consideration of FY 2009-2010 CDBG Funding Allocation to Improve Handicap Accessibility at Bill Keller Park.

Mr. Gonzalez asked the Council to approve the allocation of \$62,400 for handicap improvements at Bill Keller Park. He said the money would be used to extend the concrete pad around the bleachers to allow access for wheelchairs and to install a five-foot sidewalk around the playground.

Council Member Conoley made a motion to approve the allocation, and Council Member Marks seconded. The motion passed unanimously.

2. Proposal from Professional Engineering Consultants (PEC) for Amendment #2 for Stormwater Services Associated with Tropical Storm Fay.

Mr. Hamstra stated that he listed various tasks associated with Tropical Storm Fay in his proposal, and he explained the tasks to Council.

Council Member Marks made a motion to approve the proposal from PEC for \$30,000 to complete the tasks itemized for Council. Vice Mayor Erickson seconded. Mr. Gonzalez stated that there are ongoing issues that Mr. Hamstra had continued to address. Mayor Garcia asked for a vote on the motion to approve. The motion passed unanimously.

Mr. Hamstra quickly updated the Council on the Saxon Woods situation and the potential for berm failure. He asked permission for the city attorney's office to follow up with the attorney representing the homeowner's association. There was consensus to approve his request.

3. Draft Agreement With Volusia County for Regional Stormwater Storage Facility (RSSF).

This item was removed from the agenda.

4. Pass-Through Proposal from PEC to Provide Permitting Assistance for Volusia County Associated with the Borrow Pit (RSSF).

This item was removed from the agenda.

5. Proposal from PEC for Technical Assistance Associated with the FEMA Buy-Out Program.

Mr. Hamstra updated the Council on the status of the buy-out program and stated that representatives from the State Division of Emergency Management have been a tremendous asset. Mayor Garcia asked if staff could draft a thank-you letter to the State for their assistance in the buy-out program.

Vice Mayor Erickson made a motion to approve the payment of \$27,553.61 to PEC and for the City to seek reimbursement from FEMA for a portion of the fees. Council Member Marks seconded, and the motion passed unanimously.

Tina Rose, 122 Pine Valley Court, asked for clarification on the lake level that would necessitate a pump in her area.

6. Renewal of Inmate Work Squad Contract WS482 Florida Department of Corrections.

Mr. Gonzalez recommended that the Council renew the contract for one year and noted that the estimated cost for year two is \$65,000.

Mayor Garcia entertained a motion for approval. Motion made by Council Member Lenzen and seconded by Vice Mayor Erickson. The motion passed unanimously.

7. Discussion Regarding VGMC Rules.

Vice Mayor Erickson stated that he would like to attend the upcoming VGMC meeting on the 27th, but the Council has a comprehensive plan workshop scheduled. Mayor Garcia stated that there is also a water meeting scheduled for the same date in Deland in the County administration building. The Council agreed on the importance of the two other meetings. There was consensus to move the workshop to Tuesday, June 2nd at 6:00 p.m.

Vice Mayor Erickson voiced concern that the VGMC is considering removing citizen standing, and stated he would be attending the meeting to voice his opposition to the proposed rule changes as a citizen.

Mayor Garcia asked for staff to provide a copy of the letter that the city attorney prepared in October of 2008 regarding VGMC rules to each Council member. Vice Mayor Erickson suggested that each Council member email his individual concerns regarding the proposed rules to VGMC representative Danny Allen. He added that the Council could always send something to the County after they see the outcome of the VGMC meeting on the 27th.

8. Discussion by Vice Mayor Erickson Regarding Forensic Audit.

Vice Mayor Erickson distributed information regarding forensic audits to the Council and discussed the City of Winter Springs undertaking a forensic audit. He said he would like the new city manager to have a clean slate; that a new city manager would like to have an audit prior to his or her arrival; and that he would like to see what is going on with the City's finances. He asked the other Council members if they desired to move forward with a forensic audit.

The Council discussed the idea and there was consensus to ask a representative from the firm performing the Winter Springs audit to make a presentation to Council at an upcoming meeting.

XII. Council Member/Committee/Staff Reports

1. Board / Committee Appointments
Public Safety Advisory Committee
Regular Member

Council Member Marks

Council Member Conoley made a motion to extend the meeting to 11:30 a.m. Vice Mayor Erickson seconded. The motion passed unanimously.

Council Member Marks made a motion to appoint Ryan Rinaldo to the Public Safety Advisory Committee, and Council Member Conoley seconded. The motion passed unanimously.

2. Member Reports/Communications
 - A. Mayor and Council Members

Mayor Garcia informed everyone that they have a tentative date set for Saturday, June 20th for Mike Abels to make a presentation to the Strategic Planning Steering Committee. There was consensus to hold the meeting at 9:00 a.m.

Mayor Garcia said that VCOG would like an alternate member appointed from DeBary. Vice Mayor Erickson stated that he would volunteer. Council Member Conoley made a motion to appoint Vice Mayor Erickson as the City's alternate, and Council Member Lenzen seconded. The motion passed unanimously.

Council Member Marks noted that the public information sign from WAV is in. Mayor Garcia suggested that it be placed at Town Hall

Council Member Marks informed the Council that former EDAC Chairman Don Kitner does not have any of the paperwork from the prior Committee due to water damage. He asked Ms. Tebo to place the job description for EDAC members in the Councils' mail baskets so that they could proceed with bringing in a new committee in the near future.

Vice Mayor Erickson said that there had been some confusion regarding the GAI contracts, and he met with Lynn Gibson regarding the 2005 contract. He said that Mr. Gibson told him the rates were increased by the former city manager, and he is concerned because the contract is between the City and GAI.

- B. City Attorney

Mr. Ardaman said he received a letter from Judy Schuler Trustee representative Alan Watts concerning the mast arm project and its impact on his client's property on the southwest corner of Highbanks Road and US Highway 17-92. He asked the Council if they wished for the city manager and himself to attempt to negotiate with the owner to avoid potential litigation. There was consensus that Mr. Ardaman should try to accommodate the property owner and work something out.

- C. City Manager – Update on Highbanks Marina.

Mr. Gonzalez had nothing to report.

XIII. Adjournment

The meeting adjourned at 11:26 p.m.

**APPROVED December 2, 2009
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk