

**City of DeBary  
CITY COUNCIL MEETING**

**Wednesday**

**July 1, 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 Attorney Kurt Ardaman, and Assistant City Attorney Dan Langley

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

None.

**IV. Approval of Minutes**

1. Regular City Council Meeting held March 18, 2009.
2. City Council Workshop held March 25, 2009.
3. Regular City Council Meeting held April 2, 2009.

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

**V. Additions, Deletions, or Amendments to the Agenda**

Council Member Conoley said he would like to move the discussion of Council Members' Short Lists for the City Manager Position immediately following the presentations. The Council agreed.

**VI. Presentations**

1. Proclamation Declaring July Parks and Recreation Month.

Mayor Garcia read the proclamation aloud and offered his gratitude to the City's Parks and Recreation Department. On behalf of all Parks and Recreation staff, Parks and Recreation Director John Fletcher accepted the gratitude offered by the Mayor.

2. Certificate of Appreciation to Sheriff's Department K9 Brit.

Mayor Garcia read the Certificate of Appreciation aloud and presented K9 Brit with a doggy bone and some treats.

3. Certificate of Recognition to DeBary Elementary School for Receiving an "A" Grade.

Mayor Garcia presented and read the Certificate of Recognition aloud. Principal Joseph Rawlings accepted the recognition on behalf of all faculty and staff at DeBary Elementary School. Mr. Rawlings voiced his gratitude for all the hard work that the students and teachers put into the school.

Mayor Garcia introduced three boy scouts that showed interest in performing services to earn badges. He stated that their first project would be to collect and recycle cans throughout the City; the second project would be to help improve services that can prevent or lower crime within the City; the third and final project would be focused on constitutional law.

## **XI. New Business**

4. Discussion of Council Members' Short Lists for the City Manager Position.

Mr. Ardaman stated that the lists should be disclosed for public record. He also stated that there is no prohibition on scheduling interviews at different times, but the Council cannot exclude anybody from the interviews.

Council Member Conoley stated his top four available candidates as the following in order of preference: Rod Morgan, John Drago, Kenneth Weaver and Anthony Gonzalez.

Vice Mayor Erickson stated his top five available candidates as the following in order of preference: Hugh King, Kenneth Weaver, David Maynard, William Underwood II, and Edward Smyth Jr.

Council Member Lenzen stated his top six available candidates as the following in order of preference: John Drago, Anthony Gonzalez, Ed Smyth, Susan Boyer, Nancy Ciummo, and Greg Wood.

Council Member Marks stated his top five available candidates as the following in order of preference: Ed Sadler, Mike Hayslip, Christopher Steers, Kenneth Weaver and David Maynard.

Mayor Garcia stated his top five available candidates as the following in order of preference: Anthony Gonzalez, John Drago, Ed Smyth, Greg Wood, and Jeffrey Naftal.

## **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:*

None.

## **IX. Growth Management and Development Review**

1. Discussion by City Attorney Regarding Code Enforcement Fines/Lien Collection.

Mr. Langley discussed five separate cases in depth and outlined the options available to Council. Council Member Conoley made a motion to approve Option # 1 with regards to the Highbanks Marina cases. Mayor Garcia seconded, and the motion passed unanimously.

CJ DiTaranto, representing OC Collision, suggested that the City tow abandoned vehicles after the property owner has exceeded a certain number of code enforcement warnings.

## **X. Old Business**

1. Discussion of Procedures for Nominating Members to the Economic Development Advisory Committee (EDAC).

Mr. Gonzalez asked if the Council wanted to invite new members or bring in the old members, or compile a list of both to vote on. Vice Mayor Erickson suggested that the Council create and define a parameter plan for EDAC, so that they would have direction for future meetings. The Council agreed that the application process would remain the same, whereas former members and new members could apply.

## **XI. New Business**

1. Proposal from Professional Engineering Consultants (PEC) for Miscellaneous Stormwater Services Associated with Tropical Storm Fay.

Stormwater Engineer David Hamstra requested approval for PEC's Amendment #3 for continuing miscellaneous stormwater services associated with Tropical Storm Fay and cited five specific issues related to the request in the amount of \$20,000.

The Council questioned the various reasons why the City needs to handle the five specific issues financially when some of them seem to pertain more to the County.

Council Member Conoley said that he is mostly concerned with the Gateway Center for the Arts issue and the DiTaranto's issue. Mr. Hamstra added it could cost between \$4,000 and \$5,000 for PEC to compile a cost evaluation exercise for the Council.

CJ DiTaranto, 300 May Place, encouraged the Council to fund and follow through with the cost evaluation exercise and cited specific reasons for taking his stance.

Council Member Conoley asked Mr. Ardaman if there could be a limited liability lawsuit against a government entity when an individual sues and wins a case against the City. Mr. Ardaman responded that there is a special process that the City has to go through, and he discussed the limited liability lawsuit in further detail.

Mayor Garcia entertained a motion for approval for PEC's Amendment #3 for continuing miscellaneous stormwater services associated with Tropical Storm Fay. Motion made by Vice Mayor Erickson and seconded by Council Member Lenzen. The motion passed unanimously. Mr. Ardaman clarified that the proposal includes the cost evaluation exercises proposed by Mr. Hamstra for the DiTarantos' property.

2. Amendment #1 from PEC Associated with the West Side Emergency Flood Management System.

Mr. Hamstra gave a quick overview of the six elements of the flood management system. He said the total costs for all elements of Amendment #1 are \$189,920.

There was discussion concerning project specifications that have previously taken place between the City and other entities and FEMA funding and reimbursement allocations.

Mayor Garcia entertained a motion for approval for PEC's Amendment #1 Associated with the West Side Emergency Flood Management System. Motion made by Council Member Conoley and seconded by Council Member Marks. The motion passed unanimously.

3. Proposal from PEC to Perform Saxon Woods Stormwater Pond Improvements.

Mr. Gonzalez requested that the discussion be deferred due to legal issues, and that the Council to provide guidance on the cap for the survey services. Mayor Garcia entertained a motion for approval to defer the discussion. Motion made by Vice Mayor Erickson and was seconded by Council Member Conoley. The motion passed unanimously. Mayor Garcia entertained a motion for approval to allow the expenditure of funds for the survey work. Vice Mayor Erickson made a motion to continue construction designs for Saxon Woods, not to extend \$6,000. Mayor Garcia seconded, and the motion passed unanimously.

4. Discussion of Council Members' Short Lists for the City Manager Position.

This item was discussed earlier in the meeting.

Mr. Ardaman explained the ranking, which was compiled from each of the Council members' list on a point-based system. He stated that John Drago was first with thirteen points, Anthony Gonzalez was second with eleven points, Kenneth Weaver was third with nine points, Ed Smyth was fourth with seven points, Hugh King, Rod Morgan and Ed Sadler tied for fifth with five points each, David Maynard and Mike Hayslip tied for sixth with four points each, Chris Steers was seventh with three points, Susan Boyer, Bill Underwood, and Greg Wood tied for eighth with two points each, and Nancy Ciummo and Jeffrey Naftal tied for ninth with one point each.

Direction was given to Mr. Gonzalez to have Ms. Tebo call each candidate starting from the top to confirm they are still eligible, and then create a list with the top seven available candidates for the July 15<sup>th</sup> regular Council meeting to begin the interview process.

5. Florida League of Cities Voting Delegate – 83rd Annual Conference.

Vice Mayor Erickson made a motion to nominate Mayor Garcia as the Florida League of Cities voting delegate. Council Member Conoley seconded, and the motion passed unanimously.

### **XIII. Council Member/Committee/Staff Reports**

1. Board / Committee Appointments  
Code Enforcement Board  
Regular Member

Vice Mayor Erickson

Vice Mayor Erickson made a motion to nominate Nick Koval as a regular member after receiving a strong recommendation from David Hooker, Neighborhood Improvement Officer. Council Member Lenzen seconded, and the motion passed unanimously.

2. Member Reports/Communications

A. Mayor and Council Members

Council Member Marks indicated that Lindsay Roberts resigned from WAV and suggested that West Volusia County might create its own WAV.

Vice Mayor Erickson discussed the commuter rail. It was noted that there have been questions unanswered thus far on the part of Volusia County.

Council Member Conoley made several comments regarding his progress with the fire station and the financial budget.

Mayor Garcia reminded Council that he might be out of town during the regular City Council meeting on August 5<sup>th</sup>, and that Vice Mayor Erickson would be in charge of the meeting.

B. City Attorney

Mr. Ardaman said that Hazen Construction has threatened liability litigation in reference to the West Side Emergency Flood Management System bid, but they have not yet filed suit.

He also informed the Council that he received a second letter from Allen Watts, representative of the Judy Schuler Trust, claiming that they believe the City will take a portion of their access to the corner piece of their property if it continues with the mast arm project in that location. He added that no resolution has been made.

Mr. Ardaman stated in respect to the GAI proposal for Phase five construction engineering inspection services, the law for the capital costs limits of the project went from one million to two million. There was Council discussion and agreement that they wished to continue forward with this issue.

C. City Manager

Mr. Gonzalez reminded Council that he would be away the weekend of July 24<sup>th</sup>, and Mr. Seelbinder would serve as Acting City Manager.

**XIII. Adjournment**

The meeting adjourned at 11:04 p.m.

**APPROVED February 3, 2010  
CITY OF DeBARY  
CITY COUNCIL**

**Bob Garcia, Mayor**

**ATTEST:**

**Stacy Tebo, City Clerk**