

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
September 2, 2009
7 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, Neighborhood Improvement Officer Dave Hooker, Finance Administrator Jimmie Seelbinder, 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.

George Coleman, 286 Deleon Road, spoke regarding the surveillance services the Sheriff's Department provides when residents are on vacation and suggested that residents be reminded to utilize this service.

Francis Pezold, 28 Monroe Avenue, requested that Mr. Gonzalez remain employed by the City and complimented him on his work and dedication.

Mark Meister, 146 Pine Tree Drive, said the Council did not do their homework before hiring Mr. Weaver.

Gene Watson, 27 Monroe Avenue, stated that there have been problems with the stormwater system since 2004; that Mr. Gonzalez turned the City around and acted professionally; and that he is disappointed with the Council's decision to hire Mr. Weaver.

Don McGrath, 116 Lower Lake Court, said the City should continue to employ Mr. Gonzalez.

James Chestnut, 390 Hickory Springs Place, said he was representing the taxpayers of DeBary and asked how the City got into the situation regarding the city manager position. He said that he felt Ken Weaver was qualified for the city manager position.

Mayor Garcia said he did not support hiring Ken Weaver because he had not spent more than two years in a position, did not provide references on his resume, and did not get a renewal on his contract in his previous position.

Deborah Cerankowski, 256 Adelaide Street, said she did not understand why the Council considered Mr. Weaver when they should have considered Mr. Gonzalez for the position of City Manager. She asked that they keep Mr. Gonzalez and consider him for the position.

Val Emerson, 104 Barclay Court, asked if there are consequences if the City does not adopt a budget and voiced her dissatisfaction with the issue of the audit.

Eugene Stump, 106 Birkwood Court, said taxes are high, the City needs to work together, and he is upset about what was going on in the City presently.

Thomas S. Marshall, Sr., 301 Glen Club Drive, said he has flooding in his area and asked that the Council keep the issue on the agenda. He added that Mr. Gonzalez has done a good job and would be a good city manager.

Council Member Conoley addressed Ms. Emerson's concerns and asked if the 2007-2008 audit was done.

Vice Mayor Ericson said that it was the manager's fault that Mr. Seelbinder spent too much time doing administrative work instead of working on the budget, and there should have been a delegation of duties.

Mayor Garcia said he did not direct Mr. Seelbinder to concentrate on FEMA, and that the FEMA project was the city manager's responsibility.

IV. Approval of Minutes

None.

V. Additions, Deletions, or Amendments to the Agenda

Council Member Conoley said he felt Mr. Weaver had been treated unfairly. He suggested they move the issue of Mr. Weaver up to the front of the agenda. Mayor Garcia said they could address the issue of Mr. Weaver after the presentations.

VI. Presentations

1. Proclamation Declaring September 8, 2009 as a Day to Honor America's First Responders.

Mayor Garcia read the proclamation aloud.

2. Proclamation Declaring September as Ovarian Cancer Awareness Month.

Mayor Garcia read the proclamation aloud and recognized the importance of Ovarian Cancer Awareness.

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.

X. Old Business

1. Kenneth Weaver Employment Agreement and Appointment as City Manager.

David Chapman, 13 Palmetto Drive, said that many citizens felt the Council should have looked within the DeBary community; that Mr. Gonzalez should be considered for the position; and that the search for a manager should be limited to Florida, and as close to DeBary as possible.

Council Member Conoley said he did what he thought was right in the selection process for city manager; that he welcomed criticism on the issue; and that he found Mr. Weaver to be well qualified for the position. He stated the reason Mr. Weaver did not stay in one city for longer than two years was because he was brought in to reorganize.

Jack Wilson, 114 Pine Valley Court, said he heard Mr. Weaver was a trouble shooter who took care of problem cities and then moved on. He said that his research indicated negative feedback, such as misuse of city property and allegations of inappropriate language or behavior.

Council Member Marks read a list of Mr. Weaver's achievements and suggested the information Mr. Wilson obtained might be incorrect.

Council Member Lenzen said that Mr. Weaver declined the position and suggested the discussion be moved forward to determine what should be done about the position.

Susanne Lombardi, 45 Catalina Drive, said she also performed research on the computer and had concerns about women being harassed by Mr. Weaver. She asked the Council to look more closely at future candidates.

Debbie Cloaninger, 449 Fox Run, said she felt there was time wasted speaking about Mr. Weaver as he declined the position. She said that Anthony Gonzalez is qualified to be city manager, and although the Council does not want him, the rest of the City does.

Vice Mayor Erickson said that internet accusations are just accusations, and there are, in fact, two Kenneth Weavers. He voiced concern that people would now not want to work for the City of DeBary, and that there would not be anyone to run the City. He submitted a list of people who might be interested in accepting an interim city manager position.

Mayor Garcia asked Mr. Gonzalez to consider withdrawing his resignation. Mr. Gonzalez said he appreciated the support and the request, but he would not withdraw his resignation.

Vice Mayor Erickson suggested Mr. John Drago as an interim manager.

Council Member Lenzen said they could go back to the list of applicants, offer the position to Mr. Gonzalez, start the process over again, or hire an interim manager. He suggested Mr. John McCue, former Orange City City Manager, or Mr. Drago.

The Council discussed that County Council Member Pat Northey had recommended Kassandra Blissett, former manager of Ponce Inlet.

Danny Allen, 140 Fort Florida Road, gave his opinion on Mr. McCue's job performance and disposition.

Chris Carson, 416 N. Pine Meadow Drive, said he is familiar with the people being considered for interim city manager and is sorry to see Mr. Gonzalez leave. He said Mr. McCue had a good finance background, Mr. Drago had done good things for Seminole County, and Cassandra Blissett is customer friendly and positive.

Council Member Conoley asked that Greg France be added to the list. Mayor Garcia asked Mr. France if he would consider the position. Mr. France said he would and pointed out that everyone has imperfections in their background, and most city managers have been fired.

David Chapman, 13 Palmetto Drive, asked if a bonus could be offered to Mr. Gonzalez if he would stay and act as interim manager. Mayor Garcia said Mr. Gonzalez declined to reconsider withdrawing his resignation. Mr. Gonzalez said he would consider a contract. Council Member Conoley said because Mr. Gonzalez had resigned it was not that simple to reconsider him.

Council Member Conoley made a motion that they offer the position of interim city manager to Cassandra Blissett contingent upon an acceptable contract. The motion was seconded by Council Member Marks. The motion passed 3-2, with Mayor Garcia and Council Member Lenzen dissenting.

Mr. Ardaman stated he would contact Ms. Blissett to offer her the position, and they would schedule a special meeting to proceed with a contract.

The Council decided to hear the growth management items prior to public hearings.

IX. Growth Management and Development Review

1. Consideration of Request from Timothy & Molly Hudson to Abate CEB Lien on 660 Summerhaven Drive.

Neighborhood Improvement Officer Dave Hooker outlined the code enforcement case regarding a white pick-up truck without a valid tag that began in April 2007. He stated that the Code Enforcement Board recommended a reduction of the lien to administrative costs, which were approximately \$250.

Timothy D. Hudson, 660 Summerhaven Drive, said he was delinquent in his contact with Mr. Hooker and apologized. He stated that he got rid of the vehicle a month or so after the fine was imposed, but he did not contact the City.

Mayor Garcia asked if Mr. Hudson would be able to pay the \$250 fine within thirty days. Mr. Hudson responded that he would.

Council Member Conoley made a motion to reduce the line to \$250 if paid within two weeks or ten working days, or the lien would revert to the original amount. The motion was seconded by Council Member Lenzen, and it passed unanimously.

2. Consideration of Request from Michael Davy to Abate CEB Lien on 17 Poinsettia Drive.

Mr. Hooker summarized the case involving high grass, a dead tree, and general lot maintenance issues. He stated that the Code Enforcement Board recommended that the lien be reduced to double the administrative costs of \$300.

Michael Davy, 17 Poinsettia Drive, said he would be able to pay the \$300 within thirty days or less.

Council Member Conoley made a motion to reduce the lien to \$300 if paid within two weeks or ten working days, and if not paid within that time the fine would revert to its original amount. Council Member Marks seconded.

Council Member Lenzen asked why the Board recommended that he should pay double administrative costs. Mr. Hooker said the recommendation was made because of the length of time it took for Mr. Davy to respond and correct the violations.

Mayor Garcia asked for a vote on Council Member Conoley's motion. The motion passed unanimously.

3. Consideration of Request from Donald Bauerle to Abate CEB Lien on 488 West Highbanks Road.

Mr. Hooker said the case originated in 2004 when Volusia County was contracted to provide code enforcement services. He stated that a \$250 per day fine began on September 15, 2005, and ran until April 8, 2009, for a total fine of \$325,250. He said that the Code Board's recommendation was to reduce the lien to the amount of the city attorney's fees. He added that the attorney's fees are \$8,720, and the administrative costs are \$300.

David Pewtrowski, 488 West Highbanks Road, stated that Mr. Currey and his staff have done a great job of making the area a safe place to live and asked the Council for lenience.

Mayor Garcia asked for a motion to extend the meeting. Vice Mayor Erickson made a motion to extend for an hour, and Council Member Marks seconded. The motion passed unanimously.

Council Member Conoley made a motion to reduce the fine to \$2,600 if paid within three weeks, and if it is not paid within that time, the fine would revert to the full amount. Council Member Lenzen seconded. After extensive discussion the motion failed, with only Council Member Conoley voting in favor of the motion.

Mayor Garcia asked if anyone else wanted to introduce a motion and recommended a minimum amount of \$9,020. Council Member Conoley made a motion to reduce the lien to \$9,020 if paid within 21 days. Vice Mayor Erickson seconded, and the motion passed unanimously.

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. Resolution #09-10 – Vacating a Portion of a Drainage and Utility Easement at 46 Florence Boulevard.

Mr. Ardaman read Resolution #09-10 aloud by title.

Shalene Estes, planner with GAI Consultants, explained that the property is owned by Harold and Francis Yeager; that they are requesting Council approval to vacate the easement in order to close on the house and sell the property to Mr. and Mrs. Main; and that there are several properties in Terra Alta with a similar situation in regards to the easement.

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

2. Resolution #09-04 – Maintenance Map for Fort Florida Road - Country Estates at River Bend.

Mr. Ardaman read Resolution #09-04 aloud by title.

Ms. Estes explained that the City has no dedicated right-of-way on Fort Florida Road, although the City has continuously maintained the road; that if the maintenance map is adopted by the City of DeBary, it will establish prescriptive rights, which the developer can use for the roadway and utility improvements; and that the public right-of-way will be formalized by the adoption of the maintenance map.

Vice Mayor Erickson made a motion to approve Resolution #09-04, and Council Member Lenzen seconded. The motion passed unanimously.

3. Resolutions #09-11, #09-12, #09-13, and #09-14 – Adopting the Assessment Rolls for Solid Waste, Streetlighting, Stormwater and Orlandia Heights Neighborhood Improvement District for Fiscal Year 2009/2010.

Mr. Ardaman read all four resolutions aloud by title.

Finance Administrator Jimmie Seelbinder stated that the solid waste assessment remains at \$156 per year and explained how he estimates the street lighting district fees.

Vice Mayor Erickson made a motion to approve Resolutions 09-11, 09-12, 09-13, and 09-14. Council Member Conoley seconded, and the motion passed unanimously.

X. Old Business

1. Adoption of the Revised Flood Insurance Rate Maps (FIRMs) as Contained in the City's Approved FEMA Letter of Map Revision Application.

Council Member Conoley made a motion to adopt the revised flood hazard maps with an effective date of August 26, 2009. Council Member Marks seconded, and the motion passed unanimously.

2. Kenneth Weaver Employment Agreement and Appointment as City Manager.

This item was discussed earlier in the meeting.

XI. New Business

1. Proposal from Professional Engineering Consultants, Inc. Regarding the May 2009 Storm Event.

Stormwater Engineer David Hamstra stated that the original FEMA incident period was May 18 through July 18; that he asked for an extension from FEMA, but was denied; that the City spent \$300,000 to \$400,000 for pumping and related activities; that FEMA called Mr. Seelbinder earlier in the day to deny most of the expenditures; that the appeal process is sixty days; and that he did not want to proceed with work unless there is prior approval from the Council.

Vice Mayor Erickson made a motion to extend the meeting 30 minutes. Council Member Lenzen seconded, and the motion passed unanimously.

Mayor Garcia turned the meeting over the Vice Mayor Erickson and left.

Vice Mayor Erickson said he recommended that the City pull back on any further expenditures for the time being.

There was Council consensus to support the appeal effort to recover the money from FEMA. Mr. Hamstra agreed to put current projects on hold until further notice and only work on the appeal process to try and recoup the \$300,000.

Council Member Marks suggested that it might be time to hold a workshop to discuss prioritization of the projects.

Council Member Conoley stated he wanted to meet with the auditors, including the forensic auditor at the next meeting.

Mr. Hamstra informed the Council that he planned to meet the following day with the attorney for the League of Cities regarding the DiTaranto's potential lawsuit. He asked for Council direction on how to proceed. Mr. Ardaman explained that the City has a liability insurance policy with the Florida League of Cities, and the League would be determining if the claim would be covered by the policy. There was consensus that Mr. Hamstra meet with the League once.

Mr. Hamstra said he would also need direction on how to proceed with Saxon Woods. He said that he planned to meet with the St. Johns River Water Management District (SJRWMD) on his own time to see if they would accept a less expensive alternative than what was originally proposed.

Mr. Langley said that the Saxon Woods Homeowners Association was in debt and did not have the money to pay for the necessary corrections recommended by Mr. Hamstra. He said that Mr. Hamstra was seeking Council permission to look at another alternative.

Mr. Hamstra said that if SJRWMD agreed to the alternative, he would prepare an estimate to present to Council.

Council Member Marks made a motion to extend the meeting thirty minutes, and Council Member Conoley seconded. The motion passed unanimously.

Council Member Conoley said he was not comfortable approving any expenditures at the current time.

Council Member Lenzen said that something needed to be done to remedy the situation, and he was aware that the association did not have the money to do the best correction.

Mr. Langley explained the situation with the association and its insurance carrier and said that the association made an informal offer of \$57,300 to the City. He added that their insurance carrier came up with the amount as a result of the damages incurred, but it does not cover fixing the problem. He said that Mr. Hamstra estimated the amount to fix the problem was \$240,000.

Council Member Conoley asked that Mr. Langley put a summary of the Saxon Wood issue in writing for him to look over.

2. Construction Engineering Inspection Services for Phase V of the West Side Emergency Flood Management System.

Mr. Gonzalez explained the item to the Council and stressed that it was important to move forward as construction has begun.

Council Member Lenzen made a motion to award the construction engineering inspection services to GAI Consultants, with his second and third choices being PBS & J and DRMP. Vice Mayor Erickson seconded, and the motion passed 3-1, with Council Member Conoley dissenting.

XII. Council Member/Committee/Staff Reports

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

Council Member Conoley said he wanted the city attorney to prepare a document stating what would happen if the Council does not have an approved budget by September 30th.

Council Member Conoley asked that the auditor submit his documents early so he has a chance to go over them.

Council Member Marks informed the Council that he would be unable to attend the River of Lakes Heritage Corridor Scenic Highway meetings in the future.

- B. City Attorney

Mr. Ardaman had nothing further to report.

- C. City Manager

Mr. Gonzalez said he sent a letter to the County Manager regarding the fire equipment inventory, but he did not receive a response yet.

XIII. Adjournment

The meeting adjourned at 1:00 a.m.

**APPROVED March 17, 2010
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk