

City of DeBary
REGULAR CITY COUNCIL MEETING
Wednesday
September 16, 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 7:01 p.m.

II. Roll Call

Members Present: Mayor Bob Garcia, Vice Mayor Norm 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, Kassandra Blissett, and City Attorney Kurt Ardaman

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

Mary Lee Atkins, 283 East Constance Road, said she was concerned that her property was flooded with water from Tropic Lagoon. Mayor Garcia suggested they set up a meeting to discuss options. Mr. Gonzalez said that they should see the water recede once the pumping ceases. Council Member Marks said he visited the area the previous week with Mr. Hamstra, and they were looking at possible solutions.

Mark Meister, 146 Pine Tree Drive, said he did not believe Council Member Conoley had complied with his recent public records request.

Gerald Lombardi, 45 Catalina Drive, said the library hours were going to be changed so that it would be closed on Sundays and only open two nights a week. He stated that he felt this would inconvenience working adults and noted the importance of the library to the community.

IV. Approval of Minutes

None.

V. Additions, Deletions, or Amendments to the Agenda

Council Member Conoley requested that the bear issue be added to the agenda. Mayor Garcia said they could add it under Old Business.

Ms. Blissett asked to add a proclamation for Hispanic Heritage Week and a stormwater update

by Mr. Hamstra under presentations.

VI. Presentations

1. Proclamation Declaring September 17th through 23rd as Constitution Week.

Mayor Garcia read the proclamation and presented it to Donna Hicks of The Daughters of the American Revolution in recognition of Constitution Week.

2. Forensic Audit by Deede Weithorn, CPA of Berkowitz Dick Pollack & Brant.

Ms. Weithorn addressed the Council and said her firm was retained by the City to determine if a forensic investigation was warranted. She stated that she did not recommend more forensic work, but she did suggest various areas needing improvement such as purchasing, timeliness of financial data, more frequent budget transfers, more transparency in finance, a cost study of building department financing, more guidelines in dealing with vendors, etc.

Vice Mayor Erickson asked Ms. Weithorn to discuss her statement that there are no formal policies and procedures. She said the outline for policies and procedures has been started, but not completed.

Council Member Marks said he liked the idea of starting the budget early.

Council Member Conoley asked about the software she suggested for the City's accounting. She said the age of the City's accounting software affects the usefulness of the information.

Council Member Lenzen thanked Ms. Weithorn for her expert recommendations.

Mayor Garcia echoed Council Member Lenzen's sentiments and thanked her for her report.

3. Hispanic Heritage Proclamation

Mayor Garcia stated he would present the proclamation elsewhere because none of the members were present.

4. Stormwater Update

David Hamstra, of Professional Engineering Consultants, stated that the City had asked that FEMA extend the reimbursement period for the May storm event; that Finance Administrator Jimmie Seelbinder was told that FEMA would only reimburse \$19,000 of the \$500,000 that was requested; and that FEMA was under the assumption that the City used pumps all time, although that is not the case. Mayor Garcia thanked Mr. Hamstra for working to get the reimbursement.

Council Member Lenzen said he does not want to continue to spend money to get reimbursed by FEMA and asked how much more money and time the City planned to spend in pursuit of recouping the FEMA money. Vice Mayor Erickson agreed with Council Member Lenzen.

Ms. Blissett recommended the City meet with FEMA and said the continual pumping needed to be addressed.

Council Member Lenzen asked how long it would take to react in the event of flooding. Mr. Hamstra answered that they could respond within two days and said the hoses should remain because of the time it would take to reset them.

Council Member Marks asked how long the pumps were rented. Mr. Hamstra replied that the rental periods are staggered. Council Member Lenzen said he would like to start returning the pumps as their rental agreements expire and leave the hoses in place.

Vice Mayor Erickson said he would like to have the priority areas for pumping in writing in order to avoid misunderstandings. He made a motion that the less critical pumps be pulled when the leases expire and retain the pumps in the critical areas, as determined by the professional staff. Council Member Lenzen seconded.

Council Member Conoley said he needed numbers before supporting the motion.

Ms. Blissett said that by the time the Council met again, she would have a specific list of pumps designated for removal.

Mayor Garcia asked for a vote on Vice Mayor Erickson's motion. The motion passed 4-1, with Council Member Conoley dissenting.

Don McGrath, 116 Lower Lake Court, said that he is concerned there would be flooding if the pumps are removed.

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 items:

1. Resolution #09-15 – Adopting a Tentative Ad Valorem Millage Rate for FY 2009/2010.

Mr. Ardaman read Resolution #09-15 aloud by title and noted that the proposed millage rate is 2.57279 for fiscal year 2009/2010. He pointed out that if the millage rate is raised, the City would have to notify every property owner in the City of the increase.

Mr. Seelbinder said it would cost approximately \$6,000 to increase the millage rate because they would have to mail notices to everyone.

Don McGrath, 116 Lower Lake Court, said his house has depreciated in value; the City should raise the taxes; and that the City should continue to pump until November 1st.

Mayor Garcia suggested Council go with the rollback rate. He stated that he wanted to increase because of concern regarding the City's reserves; that he wanted to be prepared in case of another storm; that he is also concerned with funding the new fire service; and that he would like to get the City in a better financial position.

Jackie Keys, 75 Lantana Drive, said people were struggling in the current economy and an increase of a few dollars would be a problem for some people.

Don Neyer, 207 East Highbanks Road, asked the Council to set the millage at the rollback rate.

Vice Mayor Erickson made a motion to approve Resolution #09-15, and Council Member Marks seconded. The motion passed 4-1, with Mayor Garcia dissenting.

2. Resolution #09-16 – Adopting a Tentative Annual Operating Budget for FY 2009/2010.

Mr. Ardaman read Resolution #09-16 aloud by title.

Vice Mayor Erickson voiced concern that the Council had not been watching the budget and that it might contain errors.

Mayor Garcia said the Council could amend the budget at any time during the year.

There was discussion regarding accounting software. Mr. Seelbinder said the purchase of accounting software is limited by the budget, and he did not feel the City could afford the best software. Ms. Blissett said she was aware of the software problems and noted that good accounting software is essential to run government efficiently.

Council Member Marks said he would support the budget in order to move forward.

Mayor Garcia made a motion to approve Resolution #09-16, approving the tentative annual operating budget for 2009/2010. Council Member Lenzen seconded. The motion passed 3-2, with Council Member Conoley and Vice Mayor Erickson dissenting.

3. Resolution #09-11 – Adopting a Corporate Banking Authorization to Change Signatories.

Ms. Blissett said there are currently three people authorized to sign checks; the three people are Maryann Courson, Jimmie Seelbinder, and Anthony Gonzalez. She noted that there must be two signatures on checks.

Council Member Marks made a motion to approve the resolution with the following individuals authorized to sign city checks: Stacy Tebo, Cassandra Blissett, and Jimmie Seelbinder. Vice Mayor Erickson seconded, and the motion passed unanimously.

IX. Growth Management and Development Review

1. Code Enforcement Fines/Lien Collection at 225 DeBary Drive.

Mr. Ardaman said that Council previously gave direction to pursue outstanding code liens and briefly outlined the code enforcement case. He stated that the Council could decide if it wants to proceed with foreclosure, and the attorney's fees would be approximately seven to ten thousand dollars, depending on the response from the owner.

Council Member Conoley said he approved of moving forward with foreclosure because of the effect it has on the neighborhood.

Mr. Ardaman explained the process that would occur if they could not make contact with the owner.

Council Member Conoley made a motion to move forward with foreclosure procedures on 225 DeBary Drive. Council Member Marks seconded, and the motion passed unanimously.

X. Old Business

1. Discussion of Bear Issue by Council Member Conoley.

Council Member Conoley said the bears have been causing problems in DeBary and suggested all the bears be relocated by the Florida Game and Fish Commission. He asked that the City Manager submit the request for bear removal in writing to the Game and Freshwater Fish Commission (FWC). Vice Mayor Erickson seconded.

Ms. Blissett stated that she contacted Dennis David, Regional Director of the FWC; that she also spoke with Leander Lacey who called Ms. Walters, of Rosedown Boulevard, to follow up regarding the bear problem; that Mr. Lacey informed the City that they were out of electric fencing and were in the process of obtaining more fencing; and that some residents do not properly secure their garbage, which contributes to the bear problem.

Council Member Lenzen stated that it is not appropriate to demand the Game and Freshwater Fish Commission trap and remove the bears because they have their own procedures to follow; that the bears came from Wekiva, not Ocala; and that he does agree there is a problem, however, the Council should not demand bear removal.

Mayor Garcia called for a vote on Council Member Conley's motion. The motion was approved 4-1, with Council Member Lenzen dissenting.

2. Discussion of Re-Advertising the City Manager Position.

Council Member Marks said he would like to create a new list.

Mayor Garcia suggested waiting for at least sixty days.

Vice Mayor Erickson disagreed and said he wanted to advertise for two weeks to get new candidates. Council Member Conoley agreed with Vice Mayor Erickson and asked to start immediately.

Council Member Lenzen agreed with Mayor Garcia and said there are other issues to deal with before hiring a new manager.

Vice Mayor Erickson asked that the background checks be performed prior to the interviews, that whoever does the background checks reports directly to the Council, and that they start the search within thirty days.

Hugh Bennett, 27 Sackett Road, said he thinks the Council should discuss what is needed in a manager before proceeding.

Council Member Marks made a motion to start a new city manager search in thirty days and to post the position for two weeks. Council Member Conoley seconded, and the motion passed unanimously.

XI. New Business

1. Interlocal Agreement for Provision of Municipal and Law Enforcement Services with Volusia County for FY 2009/2010.

Mr. Ardaman noted some minor changes made to the agreement for municipal services.

Vice Mayor Erickson made a motion to approve the agreement for municipal and law enforcement services for FY 2009/2010 as amended by the city attorney. Council Member Conoley seconded, and the motion passed unanimously.

XII. Council Member/Committee/Staff Reports

1. Board / Committee Appointments
Economic Development Advisory Committee

Mayor Garcia recommended Dawn Fitzpatrick.

Vice Mayor Erickson recommended John Atkinson.

Council Member Conoley recommended Jim Chestnutt.

Council Member Lenzen recommended Sid Vihlen.

Council Member Marks recommended Val Emerson.

Nathan Enright and Chris Yacenda were recommended for the at-large positions. Council Member Marks recommended Kristi Knight as alternate.

The Council agreed unanimously to all members recommended for appointment.

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

Council Member Marks said he is not able to make the meetings for The River of the Lakes Scenic Corridor. Mayor Garcia asked if another Council member would take over. Council Member Marks suggested sending a citizen to the meetings. Mayor Garcia said he would check into sending a citizen to the meetings and report back to the Council.

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

Council Member Marks informed the other members that WAV has been dissolved.

Council Member Lenzen said he regretted the circumstances that Mr. Gonzalez was leaving under and said he appreciated what Mr. Gonzalez had done for the City.

Mayor Garcia said he received a letter from Daytona State College that asked for a support letter from the City of DeBary.

Mayor Garcia thanked Mr. Gonzalez and wished him well in the future.

B. City Attorney

Mr. Ardaman said that the City was named as a defendant in a foreclosure lawsuit for 138 Floridana Drive, and there is a \$50,400 code enforcement fine on the property. He stated that the mortgage was approximately \$152,000; that the bank would not proceed with the short sale unless the City does a limited release; and that the bank will pay an amount to the City towards the lien if it proceeds with the short sale.

There was Council consensus to allow Mr. Ardaman to proceed with the partial lien release.

C. City Manager

Ms. Blissett informed the Council of upcoming meetings she had scheduled and noted that the West Volusia Summit would be hosted by the City of DeBary on October 10th.

XIII. Adjournment

The meeting adjourned at 11:25 p.m.

**APPROVED April 7, 2010
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk