

**City of DeBary**  
**REGULAR CITY COUNCIL MEETING**  
**Wednesday**  
**November 4, 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 7:02 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:** Interim City Manager Kassandra Blissett, 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.

Donald McGrath, 116 Lower Lake Court, thanked the Council for having the water pumped promptly.

David Chapman, 13 Palmetto Drive, criticized Council Member Conoley's behavior and stated that it violated the City Charter. He added that Council Member Conoley was using intimidation against City staff.

Suzanne Lombardi, 45 Catalina Drive, asked the residents to attend the County Library Advisory Board meeting regarding the future of the library system in Volusia County. She said that as a citizen, she was sick about how the government was being run. She added that she felt it was time to act in a courteous, kind, understanding manner, without belittling people.

Mark Meister, 146 Pine Tree Drive, read aloud a letter he received in the mail. He said he was tired of the way Council Member Conoley belittled citizens and City staff and said it was time for Council Member Conoley to behave appropriately.

John Wilson, 115 Pine Valley Court, said he was concerned about Council Member Conoley's questionable thought processes, his petty actions, and verbal abuse of city staff.

**IV. Approval of Minutes**

None.

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

Council Member Conoley asked to add a discussion of politics in city hall and unequal treatment of Council members under New Business.

Ms. Blissett added, under Old Business, the conveyance of county land, building, and equipment for fire services. Under New Business, she asked to add a discussion of finance options for the purchase of the new fire tender.

Mayor Garcia added a presentation by Captain Alan Osowski, a presentation regarding Student Government at Deltona High School, and a presentation on the Farmer's Market.

## **VI. Presentations**

### **1. Student Government at Deltona High School**

Mayor Garcia said that the student government at Deltona High School collected canned goods at a pep rally to help the Student Reach Out Program in DeBary for those in need. He thanked them for their help.

### **2. Update by Captain Alan Osowski**

Captain Osowski updated the Council on operation "Oxy Clean". He explained that their investigation into illegally sold prescription drugs had been ongoing for three months; that surveillance led them to the leader of the drug ring; that they were using fraudulent prescriptions from a doctor in Seminole County; and that they arrested 21 members of the prescription fraud ring.

### **3. Update on the Farmer's Market**

Robert Rinaldo, 161 West Highbanks Road, stated that the Farmer's Market was completing its 8<sup>th</sup> week; that it has been a success; that they have seen a steady increase in vendors and customers; and that they are collecting leftover produce from the market to donate to the Student Reach Out program.

## **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:*

None.

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

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

Council Member Conoley and Mayor Garcia disclosed ex-parte communications with Steve Costa, representative for Empire Cattle.

Shalene Estes, planner with GAI Consultants, said there had been prior Council discussion regarding the incorrect classification that had been made a number of years ago. She recommended that the Council approve the administrative future land use map change to correct the error. She added that it could be included with the ear-based amendments.

Vice Mayor Erickson asked if it would be converted to Southwest mixed use. Ms. Estes answered that it would, and a text amendment would not be needed.

There was discussion regarding the cost to process the amendment and the possibility that a traffic study would be required.

Council Member Lenzen said that it was inappropriate to have a utility classification on something that was privately owned, and that the Council should correct it.

Council Member Lenzen made a motion to approve the request for an administrative future land use map change to Southwest mixed use. Council Member Conoley seconded the motion, and the motion passed unanimously.

## **X. Old Business**

1. Update on Naranja Road Project Discussed at Stormwater Workshop held October 15, 2009, and Discussion of MPO Naranja Road Sidewalk Project.

Stormwater engineer David Hamstra gave an overview of the project to resolve both the repetitive flooding issue at 46 and 48 Naranja Road and the erosion problem at 53 Alicante Road. He informed the Council that the Local Mitigation Strategy Committee ranked the project third for grant funding, so the City's cost would be roughly \$55,000, as the hazard mitigation grant program would fund the other seventy-five percent.

Steven Harris, representative of Volusia County MPO, spoke to the Council regarding the Naranja Road Sidewalk Project. He stated that the project was recommended as a priority in the MPO's Bicycle & Pedestrian School Safety Review Study of DeBary Elementary School in 2007; that the estimated time to complete the project would be two to three years; that since the project would be federally funded, it would have to meet federal requirements for citizens with disabilities; and that it would provide a pedestrian connection between the Plantation Estates subdivision and DeBary Elementary School.

Council Member Lenzen said he supported the sidewalk project and that at a twenty-five percent contribution for the City, it was a good investment in the community.

Mr. Harris noted that the sidewalk project would impact the drainage in the area.

Ms. Blissett stated that the City already had \$100,000 in the budget for sidewalk improvements, but she needed Council's consent to proceed.

Council Member Lenzen asked if the stormwater project would complicate the sidewalk project. Mr. Harris answered that coordination would be essential, and that the stormwater work should be completed before the sidewalk project was begun.

Ms. Blissett asked if they could issue a letter of support to the Volusia County MPO. Mr. Harris responded that a letter was acceptable.

Vice Mayor Erickson made a motion to send a letter of support to the MPO, and Council Member Lenzen seconded. The motion passed unanimously.

2. Update on Lakeside Gravity Outfall System Improvements Discussed at the Stormwater Workshop held October 15, 2009.

Mr. Hamstra said that a resident had made a request to the City to fast track the project along DeBary Plantation Boulevard to save some money. He noted the importance of not jeopardizing the FEMA grant. He outlined the project and discussed Cinnamon Bay, Upper Lake, and Lower Lake. He said the project included some money for landscaping, but it did not include trees.

Mike Kolba, 441 Quail Meadow Court, said he thought the area should only be broken down once, instead of twice, to save money. He stated that the pump station needed an emergency back up system. He stressed the importance of communication and asked that the residents be notified.

Jim Gangitano, 309 La Creek Court, said he represented the HOA for the DeBary Golf and Country Club. He thanked the Council, Mr. Hamstra, and Ms. Blissett for their actions. He said he and his community loved the project and appreciated everyone's work.

Richard DeCristo, 481 Quail Hill Drive, said that he had hoped to save the trees running along Plantation Boulevard; that he would be greatly affected by the project; that the construction would remove a sound barrier and take away his privacy; and that it would be impossible to replace the trees removed during the project.

Mayor Garcia said that the City would try to replace the landscaping as best they could.

Council Member Marks asked Mr. Hamstra if FEMA had reimbursed the City for the May storm event. Mr. Hamstra responded that he and Ms. Blissett were working on the appeals process. Ms. Blissett said that there was a meeting scheduled Friday with the Department of Emergency Management Division to discuss the appeal.

3. Discussion of City Manager Selection Criteria and Process.

Mayor Garcia asked if they would use the Range Riders again.

Council Member Conoley said the Range Riders were not clear on what they were looking for in a city manager. He suggested each Council member provide input, and then they could come to an agreement on how to proceed.

Vice Mayor Erickson said he wanted consistency, honesty, and fairness in a candidate. He added that he wanted someone who valued opposing points of view.

Mayor Garcia said he would work with whomever Council selected, even if it was not the candidate he chose.

Council Member Conoley said he was looking for honesty, integrity, and common sense. He said he wanted someone who would work hard, had adequate experience, and would be fair to the community.

Council Member Marks said that all the Council members were basically looking for the same thing. He said he spent a lot of time to find the previous candidate and would do it again to make sure the right candidate was chosen.

Council Member Lenzen said it was not possible to determine if someone was honest and had integrity from a resume and phone interview. He said he would like to hear the Range Rider's opinion. He said his candidate would be Ms. Blissett, but she had not applied for the position because she was going to school.

Mayor Garcia said Ms. Blissett was his first choice, and he would hate to see her go.

Mayor Garcia suggested they put the city manager position on the next Council agenda for a follow up discussion.

4. The Conveyance of County Land, Building, and Equipment for Fire Services from the County of Volusia to the City of DeBary.

Ms. Blissett said the County would be considering the issue at the County Council Meeting. She said Mr. Williamson had done a fantastic job working towards a smooth transition. She asked that Council make a formal motion to approve or accept the conveyance. She said that Volusia County had requested the Council make a formal motion to accept the deed, land, facility, and equipment.

Council Member Marks made a motion that Council accepts the transfer of equipment and property from the County to the City of DeBary for Fire Services. Vice Mayor Erickson seconded, and the motion passed unanimously.

## **XI. New Business**

1. Property Owned by Tino Farjad at 45 Alicante Road.

Mr. Hamstra stated he had a short term and long term recommendation for Mr. Farjad's property; that the City removed the pumps and would remove the hoses; and that the property should be re-graded, the sod replaced, and the gate fixed.

Vice Mayor Erickson said that Mr. Farjad had put up with a lot and made a motion to approve both the short term and the long term suggestions from Mr. Hamstra as written on the summary sheet. Council Member Conoley seconded, and the motion passed unanimously.

Mayor Garcia said that the City damaged the property, and it is the City's responsibility to bring it back to its natural state. Mr. Hamstra said he did not think it would require more than two or three pallets of sod.

2. Properties Owned by Mitch Koffsky at 261, 263 and 265 Fraser Road.

Ms. Blissett said Mr. Koffsky suggested the Council consider acquiring the properties at 261, 263 and 265 Fraser Road because of the stormwater and flooding issues in the area.

Mr. Hamstra said that due to the restricted budget, the money would be more wisely spent on two foreclosed homes that had flooded. He said it might be worth considering in the future, however, he recommended that the City decline the offer.

Vice Mayor Erickson motioned that the City not enter into a contract to purchase the three lots. Council Member Marks seconded the motion, and the motion passed unanimously.

Mr. Koffsky asked if Council would consider purchasing the properties in the next year. Mayor Garcia said that the Council could consider purchasing the property in the future.

3. Discussion Regarding Council Request to Research Stormwater Engineering and Design in the DeBary Golf and Country Club.

Mr. Hamstra reported his research to the Council and noted some inconsistencies in the elevations, per what was designed and permitted, and what was actually built. He provided specific numbers for Quail Lake, Cinnamon Bay, and Upper Lake. He noted that the system was not designed for Tropical Storm Fay, but the situation would have been different if the lakes were built as they were designed and permitted.

There was discussion regarding the excessive costs to litigate the issue.

Mr. Ardaman said that Mr. Hamstra had only presented three of the items, and he suspected there would be more problems. He said litigation would be quite complicated as there were many people and various agencies involved including the design engineers, Volusia County, the St. Johns River Water Management District, and multiple contractors. He added that there might also be a statute of limitations issue. He asked the Council if they wanted to research the matter further.

Council Member Conoley said he realized it would be difficult to pursue the issue and asked to hear the other Council members' opinions. There was consensus that it would be too costly and difficult to pursue.

4. Amendment Number One to Interlocal Agreement with Volusia County for Transitional Road & Bridge Services.

Ms. Blissett stated that the amendment was similar to the Fire Services agreement, and that she had a verbal agreement with the County that they would continue to provide services during the transition. She noted that it was only for services that were absolutely necessary.

Vice Mayor Erickson made a motion to approve the amendment, and Council Member Lenzen seconded. The motion passed unanimously.

5. Politics in City Hall and Unequal Treatment of Council Members

Council Member Conoley spoke briefly regarding the anonymous letter read by Mark Meister and said he considered the letter intimidation. He said he never wanted to fire anyone on the City staff.

6. Discussion of Finance Options for the Purchase of the New Fire Tender.

Ms. Blissett said that she provided five financing options for the Council's consideration. She recommended that Council complete the purchase before November 30<sup>th</sup> because it would cost more after that date. She asked Council for permission to proceed with the lowest interest rate.

Council Member Marks noted that the vehicle also had the ability to pump.

Mayor Garcia said the lowest rate was 3.84 percent for a five-year term.

There was Council consensus to allow Ms. Blissett to proceed.

7. Discussion of Roberts Rules of Order by Mayor Garcia.

Vice Mayor Erickson made a motion to extend the meeting to 11:30 p.m.

Mayor Garcia asked if Council wanted to set a time limit on how long a Council member could speak on a particular agenda item.

Vice Mayor Erickson said he did not want to make a resolution to limit times because some items required more time than others. He suggested that they self impose time limits per item. Council Member Marks agreed.

Council Member Lenzen said he agreed to the limitation of the citizens' time, but the Council needed time to discuss their business.

Mayor Garcia said the meeting should stay focused on the issues.

**XII. Council Member/Committee/Staff Reports**

1. Board / Committee Appointments  
River of Lakes Heritage Corridor Scenic Highway Representative

Ms. Blissett stated that Susan Preil had volunteered to serve. There was no objection to Ms. Preil serving as the City's representative.

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

Mayor Garcia said that Ms. Blissett would be addressing the eleven items noted in the audit.

Council Member Marks said he had received emails and phone calls regarding signs. Mayor Garcia said he also received complaints.

Council Member Marks asked if a thank you letter had been sent to the Orioles regarding the purchase of the K-9 officer. Mayor Garcia said thank you letters had been sent to everyone who donated.

Vice Mayor Erickson discussed a resident's phone call regarding the pumps and the water level on Lake Lago Linda. Ms. Blissett said she and Mr. Hamstra had met with the resident. She said he was going to provide them with information, however, she had not heard from him. She suggested that she and Mr. Hamstra would evaluate the information and perhaps present it to the St. Johns River Water Management District.

Vice Mayor Erickson spoke briefly regarding the request from Mr. Chapman for a charter violation hearing.

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

Vice Mayor Erickson read the annual State deficits for schools.

**B. City Manager – Request for Christmas Eve Holiday.**

Ms. Blissett asked the Council to approve Christmas Eve as a holiday for the staff. There was Council consensus to approve the request.

Ms. Blissett noted that the roof repairs on the fire station would begin in approximately two weeks. She also reminded the Council that there would be an Economic Development Advisory Committee meeting the following week.

**C. City Attorney**

Mr. Ardaman informed the Council that he received a copy of a lawsuit filed by Hazen Construction, but they had not yet served the City.

**XIII. Adjournment**

The meeting was adjourned at 11:35 p.m.

**APPROVED April 21, 2010  
CITY OF DeBARY  
CITY COUNCIL**

Bob Garcia, Mayor

**ATTEST:**

**Stacy Tebo, City Clerk**