

**City of DeBary
CITY COUNCIL MEETING**

Wednesday

December 2, 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 7:04 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: Interim City Manager Kassandra Blissett, City Clerk Stacy Tebo, Finance Administrator Jimmie Seelbinder, and City Attorney Kurt Ardaman

The meeting was turned over to Vice Mayor Erickson so that Mayor Garcia could prepare for Public Hearing item number one regarding Charge of Violation of City of DeBary Charter Section 4.04(a) by Mayor Bob Garcia.

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

Millie Murray, 219 Valencia Road, said that she was disappointed with the City Council and asked who made the motion for the public hearing regarding item number one against the Mayor. Vice Mayor Erickson replied that he made the motion, had a second, and four people voted yes. Ms. Murray also asked if the City Charter required the need for the City to have a manager. Vice Mayor Erickson responded that the City's form of government is a city manager strong form of government, and even though the Charter does not require it, the Council recommends it.

IV. Approval of Minutes

1. Regular City Council Meeting held May 20, 2009.

Vice Mayor Erickson entertained a motion to approve. Motion made by Council Member Conoley and was seconded by Council Member Marks. The motion passed 4-0.

V. Additions, Deletions, or Amendments to the Agenda

Council Member Conoley requested the addition of an item regarding the budget. Vice Mayor Erickson added this as item number three under New Business.

Council Member Marks asked to add two items. The first was direction to the Economic Development Advisory Committee, and the second was the completion of the gambling ordinance.

Ms. Blissett requested the addition of a continued discussion of the special meeting scheduled for December 7, 2009 regarding the city manager selection.

Vice Mayor Erickson added Council Member Marks' items as two and three under Old Business, and Ms. Blissett's request as item number four.

VI. Presentations

1. Certificate of Appreciation to the Volusia County Sheriff's Office.

Vice Mayor Erickson read the Certificate of Appreciation aloud and presented it to Captain Alan Osowski.

2. VCOG Smart Growth Presentation by Raphael Montalvo and Mary Swiderski.

Executive Director Mary Swiderski of the Volusia Council of Governments (VCOG) and Volusia League of Cities (VLOC) introduced herself along with Associate Director Raphael Montalvo of the Florida Consensus Center. Ms. Swiderski explained the principles of VCOG and Smart Growth and gave detailed examples for the different community groups. She said that when assessing smart growth, one should look to encourage sustainability as a way of life while preserving the environment.

Mr. Montalvo stated that he is the facilitator for the Technical Advisory Committee (TAC) of VCOG. He explained that TAC is comprised of staff driven planners and other members around the County and is responsible for developing and protecting the tools that VCOG has provided. He added that they are required to make recommendations under VCOG's directions.

Mr. Montalvo explained in further detail the structure that TAC is governed by, jurisdiction guidelines and ordinances, and smart growth recommendation tools. He outlined these details with a visual power point presentation.

Ms. Swiderski provided a copy of a resolution that was recently passed by VCOG to the Council.

Council Member Marks commented on commuter rail and the actions of Miami Corp. and Farmton. Mr. Montalvo stated that TAC does not take a direct position for either of those cases. Ms. Swiderski stated that each community should have variable means of transportation, and VCOG does not show favoritism towards any one city or the other.

Council Member Conoley asked Ms. Swiderski to breakdown the annual budget of VCOG and to explain how the operating budget is funded.

Ms. Swiderski and Mr. Montalvo further discussed VCOG's beginnings and the importance it holds within the County.

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.*

- *1. Approval of Subgrant Agreement with the State Division of Emergency Management for Phase 1 of the Lakeside Gravity Outfall System.

Ms. Blissett briefly explained the details of the agreement with the State Division of Emergency Management for Phase 1 of the Lakeside gravity outfall system. There was further discussion between the Council, Mr. Ardaman and Ms. Blissett regarding the verbiage of the agreement.

Vice Mayor Erickson made a motion to approve the agreement. The motion was seconded by Council Member Lenzen, and it passed 4-0.

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. Hearing Regarding Charge of Violation of City of DeBary Charter Section 4.04(a) by Mayor Bob Garcia.

Vice Mayor Erickson read aloud the proposed procedures to govern the hearing written by legal staff.

Mayor Garcia asked Mr. Ardaman if the Council would be using the procedures as the standard for setting the guidelines for the hearing. Mr. Ardaman answered that the Council, the Mayor included, has the right to vote to amend or keep the procedures as they are before proceeding. Mayor Garcia stated that he sent a letter to the attorney, and he disagrees with the recommended procedures for the hearing.

Council Member Lenzen gave his opinion regarding the matter and suggested addressing Mr. Seelbinder, keeping in content with the hearing, and following the procedures. Vice Mayor Erickson made a motion to call Mr. Seelbinder forward. Council Member Lenzen seconded the motion. Council Member Conoley asked if the witnesses would be held under oath if called. Vice Mayor Erickson responded that they would be held under oath. The motion passed unanimously.

Finance Administrator Jimmie Seelbinder swore under oath and testified that he did not stop working on the budget and did not solely work on the FEMA grant money recovery under the instruction of the Mayor. He stated that he has not had further discussion with the Mayor since the date of the alleged violation.

Council Member Conoley made a motion to find that the Mayor did not violate the City Charter. Council Member Lenzen seconded the motion. The motion passed unanimously.

Mayor Garcia made a statement to the Council and said he was beginning his vacation immediately. He left the Chambers.

Thomas S. Marshall Sr., 301 Glen Club Drive, stated that the Council members should leave their personal interests out of the political business.

Donald McGrath, 116 Lower Lake Court, commented on how dramatic the Council has become in dealing with the issues of the City and recommended a recall on all Council Members, excluding the Mayor.

Eugene Stump, 106 Birkwood Court, commented that the Council needs to work together to accomplish a common goal.

2. Ordinance #06-09 – Second Reading – Establishing Fees for Fire Department Inspections and Reviews.

Mr. Ardaman read the ordinance aloud by title.

Vice Mayor Erickson made a motion to approve Ordinance #06-09 on second reading. Council Member Marks seconded. The motion passed 4-0.

3. Ordinance #08-09 – First Reading – Amending Ordinance #11-04 to Reduce the Number of Members on the Streetscape Advisory Committee.

Mr. Ardaman read the ordinance aloud by title.

Council Member Conoley made a motion to approve Ordinance #08-09 on first reading. Council Member Marks seconded. The motion passed 4-0.

IX. Growth Management and Development Review

None.

X. Old Business

1. Discussion Regarding Property Owned by Tino Farjad at 45 Alicante Road by Vice Mayor Erickson.

Vice Mayor Erickson stated that he wanted to revisit this discussion regarding the situation at 45 Alicante Road.

Council Member Lenzen stated that he met with Mr. Farjad and his wife; that they have done the City a huge service; that he wanted to clear up any misunderstanding; and that he wished to take back his previous public comments, which led to an inaccurate perception that he felt Mr. Farjad and his family were trying to get money from the City.

Ms. Blissett stated that there is a written agreement in the works to be signed by and between Mr. Farjad and the City.

2. Direction to the Economic Development Advisory Committee (EDAC).

Council Member Marks made recommendations for EDAC to start a business association, complete the City brochure, make contact with businesses outside of DeBary, and keep the Mayberry atmosphere in mind when dealing with various issues. The other Council members agreed with his ideas.

Millie Murray, 219 Valencia Road, suggested adding a welcome wagon to the City, whereby new residents are welcomed at their door.

Council Member Lenzen said he would like them to research the market to see what is viable in DeBary and identify what the City could do to help DeBary businesses.

There was additional discussion regarding the commuter rail system and economic development. Ms. Blissett ran through the agenda ideas that she would present to EDAC.

3. Completion of the City's Gambling Ordinance.

Council Member Marks stated that a couple months back at a prior meeting there was discussion regarding the creation of an ordinance.

Ms. Tebo commented that the Council was waiting to hear back from Mary Love, and she would contact her regarding the ordinance. There was consensus that once the information is received from Ms. Love, the item should be scheduled on a future Council agenda.

4. Discussion Regarding Special Meeting for City Manager Selection.

The Special City Council Meeting for the selection of the city manager was rescheduled for December 9, 2009 at 3:00pm to accommodate all Council Members; a secondary date was set for December 14, 2009 at 6:00pm.

There was Council discussion regarding the process and ranking system, the candidates they have spoken with, and their current lists of chosen candidates.

XI. New Business

1. Proposal from GAI Consultants, Inc, to Provide Pre-Construction Services for the Three Lake Interconnect Projects and the Community Drive Stormwater Capital Improvement Project.

Ms. Blissett read the proposal aloud and noted that that costs would not exceed \$8,850.00. Vice Mayor Erickson made a motion to approve the proposal. Council Member Lenzen seconded. The motion passed 4-0.

2. Proposal from Pegasus Engineering, LLC to Provide Engineering Services Related for the Lakeside Gravity Outfall System.

Ms. Blissett read the proposal aloud, made additional comments regarding the State Statute, and noted that costs would not exceed \$250,000.00 for the overall improvement project. Vice Mayor Erickson made a motion to approve the proposal as discussed. Council Member Marks seconded. The motion passed 4-0.

3. Discussion Regarding the Budget by Council Member Conoley.

Council Member Conoley commented that the costs the City pays out for employee health care is too high. He suggested directing the city manager to look into finding a different insurance broker to eliminate some costs.

Ms. Blissett stated that open enrollment is set for December 15, 2009, and that it is too late to amend any of the steps already taken. She stated that the insurance broker offers comparison rates and guides the City to choose the best options. She assured Council that the total amount would not exceed the approved amount that was budgeted for employee health care.

XII. Council Member/Committee/Staff Reports

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

Council Member Lenzen discussed the recent MPO meeting. He commented on the discussions of widening Howland Boulevard and the issues that the City of Deltona came up against regarding funding and grant matching money. He stated these facts to make everyone aware of why he voted the way he did on the issue.

Council Member Marks commented on the holiday picture and thanked Ms. Blissett for getting a new state flag.

Vice Mayor Erickson discussed the process or lack of process, possibly due to a lack of communication, which had taken place to set up the Strategic Planning Steering Committee and noted that Mr. Abels would be happy to set it up.

Vice Mayor Erickson commented on the decision that he made for the public hearing against the Mayor.

Council Member Conoley made a motion to extend the meeting by fifteen minutes. Council Member Marks seconded. The motion passed 4-0.

B. City Manager

Ms. Blissett informed the Council that she assembled engineers from South Daytona, Daytona Beach, Port Orange, and the County to assess the responses to the request for qualifications for engineering services.

Ms. Blissett stated that Saxon Woods, Mr. Langley, Mr. Ardaman, and Mr. Hamstra are working towards scheduling a meeting in regards to the berm failure.

C. City Attorney

Mr. Ardaman volunteered his firm to sponsor the advertisement for the holiday picture to be placed in the newspaper.

XIII. Adjournment

The meeting adjourned at 11:08 p.m.

**APPROVED May 5, 2010
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk