

City of DeBary
CITY COUNCIL MEETING
Wednesday
March 4, 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: City Manager Maryann Courson, 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.

None.

IV. Approval of Minutes

1. Regular City Council Meeting held December 17, 2008.

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

V. Additions, Deletions, or Amendments to the Agenda

VI. Presentations

1. Certificate of Recognition to Nancy Diane Morris, DeBary Elementary School's Nominee for Teacher of the Year.

Ms. Morris was not present to accept the certificate. DeBary Elementary principal, Joe Rawlings, informed the Council that something came up that prevented Ms. Morris from attending. Mayor Garcia stated that the presentation would be rescheduled to March 18th.

2. Discussion by Lindsay Roberts of WAV Regarding the St. Johns River Water Management District and Volusia County Council's Resolutions on the Rules for Irrigation.

Ms. Roberts explained the water supply in central Florida and the need for conservation. She informed the Council that WAV is researching alternative water sources. She outlined the various conservation efforts of WAV for the Council.

Mayor Garcia asked Ms. Roberts to discuss the fines involved with watering violations.

Council Member Conoley stated that individual households only account for ten percent of the total water usage in the United States; that agriculture uses seventy percent of the total; and that industry accounts for the other twenty percent of the water usage in the United States.

Council Member Conoley discussed various costs for growing crops in terms of water use with Ms. Roberts.

Ms. Roberts explained the education efforts of WAV and the value of one agency producing materials as opposed to every city creating their own public education flyers.

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. Resolution #09-03 – Amending Resolution #08-01 Regarding Rules of Order

Mr. Ardaman read Resolution #09-03 aloud by title.

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

IX. Growth Management and Development Review

1. Request for Extension of Preliminary Plat Approval for DeBary Town Center.

Shalene Estes, planner with GAI Consultants, explained the request and noted that the Council authorized a one-month extension at the Council meeting held February 4, 2009.

The applicant, Steve Costa, requested a twelve-month extension for the preliminary plat.

Vice Mayor Erickson spoke about the \$27,000 in fees owed to the City related to the racetrack application on the property. He asked if the initial one-year extension was given to research the impact of commuter rail. Mr. Costa answered that there was discussion regarding how commuter rail might change the area. He voiced his commitment to the project, but said that the economy has put him in a tailspin.

Council Member Marks asked how many phases are involved in the project. Mr. Costa responded it would be a single phase. Council Member Marks asked about property taxes. Ms. Courson answered that the property appraiser bases them on the current use, which is agricultural, and not the planned unit development (PUD) zoning.

Council Member Lenzen asked for clarification regarding the land use designation.

Mr. Costa explained why he would like to keep the PUD agreement alive and said he believed the economy would turn around before 2010. He noted it would cost the City nothing to extend the preliminary plat.

Verna Perry, 18 S. Shell Road, asked why the Council is entertaining Mr. Costa's request for an extension.

Sandy Chestnutt, 390 Hickory Springs Place, said that Mr. Costa has had eight years to develop the property and asked the Council to deny Mr. Costa's request.

James Chestnutt, 390 Hickory Springs Place, said that the Council should not grant the extension.

Eugene Stump, 106 Birkwood Court, said the Council should deny the request.

Jackie Keys, 75 Lantana Drive, voiced the importance of good stewardship and said the Council should strive to enrich the lives of DeBary citizens.

Mary Shoup Love, 345 McLaren Lane, said there is no advantage to the City to grant the extension.

Mark Meister, 146 Pine Tree Drive, suggested that the City might use the property as a bargaining tool to get roadwork done. He advocated the Council giving the property owner one more chance.

Mr. Ardaman said the Council has authority to impose conditions on the approval, and the payment of the fees should be made a condition of approval.

Mayor Garcia asked Mr. Ardaman the ramifications of denial. Mr. Ardaman responded that the owner has a variety of avenues to pursue in the event of a denial and briefly described what would happen if there were a legal challenge. He added that Council has reasonable grounds to decide either way.

Ms. Courson explained the pass through ordinance and the reason there are outstanding fees related to the racetrack hearing.

Mr. Costa stated that the DeBary Town Center does not involve any sort of gambling, and he would be willing to place a gambling prohibition in the covenants.

Mr. Costa voiced his displeasure regarding the fees that the racetrack applicant refused to pay and said it is not fair for the property owner to be stuck with the bill for DeBary Real Estate Holdings. Ms. Courson stated that Mr. Costa signed a notarized owner authorization for the applicant to apply for the rezoning on the property, and he should enforce his contract with the applicant to pay the fees.

Vice Mayor Erickson made a motion to deny the extension. Council Member Conoley seconded. The motion passed unanimously.

2. Omega Research Clinic Final Site Plan and Lot Combination, File No. GAI-09-01-FSP.

Ms. Estes explained the request and stated that it meets the requirements of the development agreement and the Land Development Code.

Jeremy Owens, with CPH Engineers, explained the plans to the Council and entertained questions. He noted that there are not any easements that might be impacted by the lot combination.

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

X. Old Business

None.

XI. New Business

1. Proposal for Various Emergency Stormwater Construction Activities from Briar Corporation.

Ms. Courson explained that the proposal was made at the request of Council Member Lenzen. She stressed that it is important to replace the pipe underneath the Riverside Condominiums going to the DeBary Bayou.

Council Member Lenzen said that what took the most time during Tropical Storm Fay was laying the hose, and if the line were buried, water could be moved much more quickly in the future to prevent homes from flooding. He added that burying pipe would be an insurance policy for the City.

Tina Rose, 122 Pine Valley Court, voiced her concern regarding both short-term and long-term stormwater projects, and noted the importance of building the West Side Emergency Flood Management System.

Council Member Conoley made a motion to approve the proposal up to \$199,000. Council Member Marks seconded. The motion passed unanimously.

2. Discussion of Volusia County Mandatory Spay and Neuter Ordinance.

Vice Mayor Erickson said he was not in favor of the mandatory microchip, but he does support the spaying and neutering of animals. He questioned the cost involved in the proposal sent by Volusia County.

Mayor Garcia suggested that Animal Control attend a Council meeting to present the program and answer questions. The Council members agreed to schedule an Animal Control representative at the next available Council meeting.

XII. Council Member/Committee/Staff Reports

1. Board / Committee Appointments
Code Enforcement Board
Alternate Member
Council Member Conoley

Council Member Conoley made a motion to appoint Mary Shoup Love as an alternate to the Code Enforcement Board. Council Member Marks seconded. The motion passed unanimously.

Orlandia Heights Neighborhood Improvement District
Craig Cooper At-Large

Vice Mayor Erickson made a motion to appoint Craig Cooper, and Council Member Lenzen seconded. The motion passed unanimously.

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

Vice Mayor Erickson discussed situations in which an applicant owes fees to the City and then wants to apply for something. He stated that the Council should not be hearing the request until all fees are paid.

Vice Mayor Erickson asked Mayor Garcia for clarification on his comments during the recent meeting when Council was discussing the dissolution of the Economic Development Advisory Committee.

Vice Mayor Erickson noted the importance of staff checking deadlines and cited the Highbanks Marina resolution.

Council Member Marks said that WAV has been working on their budget. He informed everyone that South Daytona is dropping out, and if there were an increase, Holly Hill would also be dropping out. He stated he would be out of town for the March 1st meeting.

Council Member Conoley said he would like to see some younger people get involved with the City's committees/boards, and for recent graduates, it might look good on their resumes to have served on a City board.

Council Member Lenzen updated the Council on Volusia County MPO.

The Council discussed the recent VGMC activities.

Mayor Garcia stated that he sent a letter to the governor asking for the \$1.2 million reimbursement and a waiver for the stimulus packet because DeBary does not qualify. He read aloud a letter he sent to President Obama regarding the stimulus packet.

- B. City Attorney

Mr. Ardaman had nothing to report.

- C. City Manager

Ms. Courson informed the Council that Neighbors for a Better DeBary would be asking the Council to address gambling at the upcoming workshop to discuss the comprehensive plan.

XIII. Adjournment

The meeting adjourned at 10:58 p.m.

**APPROVED
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk