

City of DeBary
CITY COUNCIL MEETING
Thursday
April 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 7:00 p.m.

II. Roll Call

Members Present: Mayor Bob Garcia, Vice Mayor Norman Erickson, Council Member Van Conoley, and Council Member Jack Lenzen

Members Absent: Council Member Leonard Marks (excused)

Others Present: City Manager Maryann Courson, City Clerk Stacy Tebo, Assistant City Manager Anthony Gonzalez, Neighborhood Improvement Officer Dave Hooker, and City Attorney Kurt Ardaman

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

Steven Bacon, 257 Bayou Circle, gave a quick update on the DeBary Bayou restoration effort. He briefly discussed the State's education budget.

IV. Approval of Minutes

None.

V. Additions, Deletions, or Amendments to the Agenda

VI. Presentations

None.

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. Ordinance #01-09- Second Reading – Creation of the Riviera Bella Streetlighting District.

Mr. Ardaman read Ordinance #01-09 aloud by title.

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

2. Ordinance #02-09 – Second Reading – Illicit Discharge Detection and Elimination.

Mr. Ardaman read Ordinance #02-09 aloud by title.

Vice Mayor Erickson questioned the origin of the best practices management terminology referenced in the ordinance. Stormwater engineer David Hamstra explained that it is a process in which government implements different procedures and techniques to reduce pollutant loadings.

City Manager Maryann Courson stated that the City's permit requires adoption of the ordinance.

Assistant City Manager Anthony Gonzalez explained the approximate yearly cost of the program to Council Member Conoley.

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

3. Ordinance #03-09 – First Reading – Providing for Implementation of the Water Conservation Rule for Landscape Irrigation of the SJRWMD.

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

Vice Mayor Erickson discussed various sections of the ordinance and questioned enforcement. Ms. Courson clarified the enforcement procedures staff would employ to address the ordinance. He said he is not in favor of making citizens purchase a rain sensor device.

Council Member Lenzen stated that the St. Johns River Water Management District (SJRWMD) wants everyone to have the same ordinance, and WAV would eventually provide enforcement.

Ms. Courson suggested that Council wait until Council Member Marks has returned from vacation because he has the most knowledge due to his status as the City's representative to WAV.

Vice Mayor Erickson made a motion to table first reading until April 15th at 7:00 p.m. Council Member Conoley seconded. The motion passed unanimously.

John Likakis, 38 Seminole Drive, voiced concern that the ordinance requires installation of a rain sensor, and it might be a financial hardship on citizens.

4. Ordinance #04-09 – First Reading – Fertilizer Management.

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

Vice Mayor Erickson questioned the section regarding variances. Mr. Ardaman explained variances as they relate to appeal mechanisms.

Ms. Courson stated that the ordinance is modeled after an Orange County ordinance. Mr. Hamstra stated that multiple jurisdictions are using it; that the SJRWMD said they would back off the requirements for modeling if the City adopts the ordinance; that the SJRWMD has seen the draft version, and if the Council does not alter the intent of the ordinance, the District should be satisfied; and that the ordinance is targeted toward residential application of fertilizers.

Ms. Courson stressed that if the City adopts the ordinance, the SJRWMD would not require the City to perform expensive modeling; that from a cost standpoint, DeBary is probably saving \$500,000 in the long run; and that it is a very cost effective measure so the City can obtain the permits for the lake interconnects.

Council Member Conoley asked if the SJRWMD put the offer in writing. Mr. Hamstra responded that he submitted the draft ordinance to them with a letter clearly stating that they had agreed to accept the ordinance in lieu of the modeling.

Council Member Lenzen made a motion to approve Ordinance #04-09 on first reading. Mayor Garcia seconded. The motion passed unanimously.

5. Resolution #09-03 – Orlandia Heights Banking Signatures.

Mr. Ardaman read Resolution #09-03 aloud by title and recommended a slight change in section two to make it clear that all three signatures are required.

Vice Mayor Erickson made a motion to approve with the minor change suggested by Mr. Ardaman. Council Member Conoley seconded. The motion passed unanimously.

IX. Growth Management and Development Review

1. Consideration of Request from Missionaries of Hope, Inc. to Abate CEB Lien on Property at 74 S. US Highway 17-92, Case # 06-030.

Neighborhood Improvement Officer Dave Hooker explained the request to the Council and gave a brief history of the code case. He stated that \$10,000 was placed in an escrow account so the City would subordinate the code lien; that the subordination agreement was executed so that the owner could get a loan to complete the renovations needed to bring the property into compliance; that the Code Enforcement Board did not make a recommendation; that staff recommended the City recoup the \$10,000 at a minimum because the owner failed to complete the project within the ninety day time period stated in the subordination agreement; and that the owner was six months late.

Council Member Conoley voiced concern that imposing the fine would hurt a small business owner. Council Member Lenzen noted that the daycare business owner does not own the property, and as such, the lien would not hurt the small business owner.

Mr. Hooker stated that the owner's attorney advised that they are in agreement with his recommendation to reduce the lien to \$10,000.

George Coleman, 286 Deleon Road, said there are at least eleven different properties owned by Missionaries of Hope in Volusia County.

Council Member Lenzen made a motion to reduce the lien to \$10,000 if paid within thirty days. Council Member Conoley seconded the motion. The motion passed unanimously.

2. Consideration of Request from Judy R. Schuler to Abate CEB Lien on Property at 2 S. US Highway 17-92, Case # 08-044.

Mr. Hooker gave the Council a brief summary of the case and stated that the CEB recommended a reduction of the lien to administrative costs.

Council Member Lenzen noted that the owner met the timeline to install the enclosure, but failed to obtain a final inspection.

Mayor Garcia entertained a motion for reduction. Council Member Lenzen made a motion to reduce the lien to \$250 if paid within thirty days. Vice Mayor Erickson seconded. The motion passed unanimously.

3. Consideration of Request from Emanuel Colonna to Abate CEB Lien on Property at 8 Sunset Drive, Case # 08-139.

Mr. Hooker outlined the case regarding commercial vehicles for the Council and stated that the CEB recommended a reduction of the lien to administrative costs. He added that the owner was out of state due to medical reasons.

Emanuel Colonna, 8 Sunset Drive, stated he had three months of chemotherapy and radiation treatment out of state, and he did not know of the violation until his son telephoned him. He added that as soon as he returned to Florida, he corrected the violation. Mr. Hooker verified that the owner indeed corrected the violation immediately.

Council Member Conoley made a motion to waive the lien in its entirety. Vice Mayor Erickson seconded, and the motion passed unanimously.

4. Discussion of DeBary Real Estate Holdings, LLC and DeBary Town Center, LLC Failure to Pay Outstanding Invoices.

Mr. Ardaman stated he sent a letter to the owner and applicant regarding the outstanding fees; that he received a letter from Michael Goldstein regarding reducing the fees owed to the City for the racetrack hearing; and that he is requesting direction from Council if they should commence litigation or wait.

Vice Mayor Erickson discussed the need to have fees paid prior to Council consideration of applications.

Council Member Lenzen discussed the pass through ordinance and suggested looking at Port Orange's ordinance.

Council Member Conoley stated that a landowner must be responsible for what his or her agent does or does not do.

Mr. Ardaman stated that the applicant failed to timely challenge the fees as directed in the pass through ordinance.

There was extensive Council discussion regarding the pass through ordinance.

There was Council consensus not to file a lawsuit to recover the fees and to wait for the settlement of the other litigation.

X. Old Business

1. Request from City Attorney for Council Direction Regarding VGMC.

Mr. Ardaman asked the Council if they wished to continue spending funds for his office to interact with VGMC with regards to the revision of their rules and procedures.

Danny Allen, DeBary's VGMC representative, discussed the issues of standing, joint planning agreements, and the policy and procedure manual.

Council Member Lenzen stated that it was only when cities on the east side of the County began having problems that VGMC started addressing their rules and procedures. He added that the City has made its point, but he does not feel it necessary for the city attorney to remain involved.

Ms. Courson stated that the majority of the problems stem from VGMC staff.

Vice Mayor Erickson said he wants citizens to have legal standing to challenge government, and joint planning agreements leave the citizens out of the process.

Mr. Ardaman stated that the City paid approximately \$6,760 in 2007, and \$7,640 in 2008, for legal fees related to VGMC.

Council Member Conoley voiced concern regarding legal fees. Mr. Ardaman stated that he and Mr. Langley do not attend meetings unless directed by the Council or the city manager.

Ms. Courson said they could have ten more revisions of the rules, and it is time to let the other cities lead the charge.

The Council discussed VGMC and there was consensus to incur no more legal fees related to VGMC. Mr. Allen said he would continue to provide rough drafts to the Council.

XI. New Business

None.

XII. Council Member/Committee/Staff Reports

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

Mayor Garcia stated that the City received a FEMA reimbursement for Tropical Storm Fay; that he and staff have reviewed hurricane preparation information to print in the newsletter; that he is concerned about DeBary children attending schools in other cities; that he is hoping to hold a

Bayou workshop in April of 2010; that he is still working with the County regarding pollution at Gemini Springs; and that the residents on 15th Street are interested in created a special taxing district to have their road paved.

Vice Mayor Erickson distributed copies of an editorial from the News Journal regarding Miami Corp. He asked Mayor Garcia the parameters of the strategic planning committee and how many members would be part of the stakeholder team. Mayor Garcia responded that originally they had planned for twelve members, but many more people have expressed interest. Ms. Courson said that the \$450 Moose Lodge donation was used to pay Mr. Abels for his time to prepare the presentation and attend numerous meetings.

Council Member Conoley requested that the appointments for the strategic planning steering committee be placed on the April 15th agenda.

B. City Attorney

Mr. Ardaman had nothing to report.

C. City Manager

Ms. Courson said she was happy with the City Hall Grand Opening, and the ceremony went very well.

XIII. Adjournment

The meeting adjourned at 10:45 p.m.

**APPROVED
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk