

**City of DeBary**  
**CITY COUNCIL MEETING**  
**Wednesday**  
**June 3, 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:** Acting City Manager Anthony Gonzalez, City Clerk Stacy Tebo, Finance Administrator Jimmie Seelbinder, and City Attorney Kurt Ardaman.

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

Noble Livingston, business owner of Salon Moxie on Enterprise Road, stated that the promotional sign restrictions are reducing his walk-in business, and he is struggling as a small business. He asked the Council to consider options such as smaller banners or other ways to advertise to help the small businesses succeed in the current economic conditions. The Council agreed to review the matter.

**IV. Approval of Minutes**

1. Regular City Council Meeting held February 18, 2009.
2. Special City Council Meeting held February 25, 2009.

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

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

Council Member Conoley asked to add a discussion under Old Business to give Mr. Gonzalez direction to meet with CJ and Darcie Ditaranto. The Council agreed.

Vice Mayor Erickson said he would like to move the discussion of fire services immediately following the consent agenda. The Council agreed.

Mayor Garcia said he would like to change the order of Presentations whereby Item 2 becomes 1, Item 3 becomes 2, Item 4 becomes 3 and Item 1 becomes 4. The Council agreed.

## **VI. Presentations**

1. Proclamation Declaring June 6, 2009 St. Johns River Cleanup Day.

Mayor Garcia read the proclamation aloud and asked Vice Mayor Erickson to attend on his behalf due to a scheduling conflict. Both Vice Mayor Erickson and Council Member Marks said they would attend.

2. Proclamation Affirming Partnership with the US Census Bureau in Support of the 2010 Census.

Mayor Garcia explained that the 2010 Census is one of the most important items coming up in the next year and stressed the importance that everyone respond to update DeBary's information for the US Census Bureau.

3. Stormwater Update by David Hamstra of Professional Engineering Consultants, Inc.

Mr. Hamstra gave a quick overview of the current pumping throughout the City and noted that there are 25 pumps deployed throughout the City. He gave a recap of the lake levels from May 18 through May 22<sup>nd</sup> due to approximately fourteen to fifteen inches of rainfall. He noted that all of the lakes of concern are at or above the pumping level and are in good shape.

He directed the Council's attention to the spreadsheet prepared by Finance Administrator Jimmie Seelbinder showing the cost of the pump rentals at approximately \$61,050 per month. Mr. Seelbinder said that he estimates future costs of \$18,000 for fuel and a total bill of \$317,053.88. He assured the Council that he has insurance on every pump. He added that his original estimate of \$250,000 has been exceeded. He informed the Council that there is a kickoff meeting with FEMA, and they are anticipating that some money would be approved.

Council Member Lenzen stated that the FEMA reimbursement would take a long time; that he has no issue with the pumping; but that there is a point where they have to stop in order to be prepared and have capital on hand in case of a hurricane.

There was discussion about posting stormwater updates on the City website.

Vice Mayor Erickson brought up his concerns about the budget expenditures, and said he would like to know the amount in the City's reserves. Mr. Seelbinder said he would bring back the information to Council at a subsequent meeting.

4. Forensic Audit Presentation by Berkowitz Dick Pollack & Brant

Richard Fechter, representative of the accounting firm, presented his firms' qualifications and an outline of their proposal to perform an assessment and review. He discussed review of internal controls and weaknesses, what remediation could be done, identification of areas of concern, and how they would proceed with a work plan and agreed-upon procedures.

Mayor Garcia asked the cost and how long the audit would take.

Mr. Fechter stated Phase One would take about a week at a cost of approximately \$7,000 to \$10,000. He added that Phase Two outlines procedures and suggests options, and it could take two to three weeks at a cost of \$20,000 to \$30,000.

There was discussion about the fees and what would be covered.

Vice Mayor Erickson made a motion to retain the services of Berkowitz Dick Pollack & Brant for Phase One, not to exceed \$8,000. Council Member Conoley seconded. The motion passed unanimously.

## **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.

## **XI. New Business**

2. Discussion of Fire Services.

John Calache, President of the Volusia County Firefighters Union Local 3574, stated that he does not believe the County Council wishes to discontinue providing fire services to DeBary. He asked the Council whom they wanted to contract with, and said that Volusia County provides the lowest and best service.

Mr. Gonzalez said that he received a letter from the County Manager stating that as of November 1, 2009, the County would no longer provide fire services. He added that in a meeting with County officials, it was affirmed that the County is willing to ensure a smooth transition and would extend the contract to January 1<sup>st</sup> if needed. He stated that the equipment inventory has not been finalized.

Mayor Garcia voiced his dissatisfaction with the condition of the DeBary fire station, equipment, and vehicles. He also discussed the possibility of obtaining a grant to assist in the construction of a new station. He noted that it was not a City decision to terminate the County contract. Mayor Garcia stated that the City approached Orange City and Deltona once the notification was received from the County.

Don Neyer, representative of the DeBary Volunteer Firemen's Association, agreed with the Mayor and urged the Council to obtain a line item budget with the new service provider.

Marlee Grein, 34 Naranja Road, voiced concern regarding the safety of the fire station during a hurricane and noted that currently the fire personnel cannot stay in the building if the winds exceed fifty miles per hour.

Mr. Ardaman recommended that the Council assume the termination notice in the County Manager's letter is binding per the contract.

The Council discussed fire services and agreed that there are many questions that remain to be answered, but that the decision to terminate the contract lies solely with the Volusia County

Council. There was consensus that an extension might be needed before the transition occurs, and Mr. Gonzalez should continue meeting with the County to resolve the equipment issue.

### **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 #09-07 – Declaring an Emergency in the City of DeBary.

Mr. Ardaman read Resolution #09-07 aloud.

Mayor Garcia noted that the resolution is needed as a precaution to secure reimbursement from FEMA for the May Storm Event and entertained a motion for approval. Council Member Conoley made a motion to approve, and Council Member Marks seconded. The motion passed unanimously.

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

None.

### **X. Old Business**

1. Discussion Regarding Direction to City Manager to Meet with CJ and Darcie Ditaranto.

Council Member Conoley said he would like to have CJ and Darcie talk with Mr. Gonzalez about the flooding issue and come back to the Council to see if there is anything the City can do to help the situation.

George Coleman, 286 Deleon Road, discussed that perhaps his neighbor's fill might have caused some flooding on his property, which is near CJ and Darcie's property. He requested that he be included when Mr. Gonzalez meets with his neighbors. The Council agreed.

### **XI. New Business**

1. Award of Bid for the West Side Emergency Flood Management System (WSEFMS) Phases I through VI.

Mr. Hamstra outlined the bid process and stated that thirteen contractors submitted a bid proposal. He added that the bid documents were reviewed to make sure the bids were accurate. He explained that they asked the bidders (as part of a bid addendum) to provide cost information for two different alternative pipe materials (PVC - polyvinyl chloride pipe and DIP - ductile iron pipe) and to provide costs for each phase separately.

Council Member Lenzen said that the DIP is a superior product and should be used. Council Member Marks and Vice Mayor Erickson agreed.

Kevin Hare, construction engineer with GAI Consultants, answered technical questions from the Council.

There was extensive discussion regarding the use of different pipe materials for various phases.

Mr. Hamstra said that if the Council wished to install the DIP, it could only be installed in phases three through six. He explained that due to the power company's requirement, phases one and two must be installed using PVC. He revised the numbers for phases one and two to do PVC and three through six to be DIP, and said the low bid for that scenario is \$4,960,235. He said that for that same scenario, Hazen Construction would have a bid total of \$4,992,303.

Mr. Hamstra stated that with the assumption that phases one and two remain PVC, and phases three, four, five and six are DIP, the revised total would be \$5,208,247, which includes a five percent contingency of \$248,012.

Vice Mayor Erickson made a motion to award the bid for the West Side Emergency Flood Management System phases one through six, to the Briar Team for \$4,960,235, with the first two phases being PVC and the rest of the phases being DIP, with a five percent contingency figure for a total of \$5,208,247. Council Member Lenzen seconded, and the motion passed unanimously.

## 2. Discussion of Fire Services

This item was discussed earlier in the meeting.

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

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

Danny Allen, representative to VGMC, briefed the Council on Senate Bill 360 and dispute resolution as it relates to VGMC. The Council discussed the issue with Mr. Allen.

Vice Mayor Erickson indicated he was in favor of retaining citizen standing to participate, regardless of where they live.

There was some discussion regarding the removal of a VGMC member by its appointing municipality with or without cause. Council Member Lenzen said that the Council should be able to remove someone without explanation because members serve at the will of the Council.

Vice Mayor Erickson made a motion to extend the meeting for a half hour. The motion was passed unanimously.

Mr. Ardaman explained the issue of "standing". There was Council consensus that citizen standing should be retained.

Council Member Marks discussed the reinstatement of the Economic Development Advisory Committee and asked Mr. Gonzalez to place a discussion on the next agenda.

There was discussion regarding code enforcement fines on the Highbanks Marina, and Council Member Marks advised that he would like the issue resolved as expeditiously as possible.

Council Member Conoley advised the others that he had a previous commitment, and would most likely be unable to attend the workshop on June 20<sup>th</sup>.

Council Member Lenzen updated the Council on the recent MPO meeting.

Mr. Gonzalez said he received an e-mail invitation to attend a meeting concerning finding a solution for alternative water sources. Mayor Garcia said he also received the email and suggested that the City Attorney attend the upcoming meeting in Deland. There was extensive discussion, and Council Member Lenzen noted that the City does not own the utility. Council Member Conoley requested that someone attend a future Council meeting to explain the situation.

Vice Mayor Erickson made a motion to extend the meeting for fifteen minutes. Council Member Lenzen seconded, and the motion passed unanimously.

Mr. Gonzalez questioned the County sharing the line to the borrow pit and said he would like to bring it up as a formal issue at the next meeting.

Mayor Garcia discussed possible grant opportunities for fire station construction, which are part of the recovery and reinvestment act. He made several other announcements.

There was discussion on Senate Bill 360 and its possible implications.

**B. City Attorney**

Mr. Ardaman had nothing to report.

**C. City Manager**

Mr. Gonzalez notified the Council that he signed a change order for Wal-Rose Construction in order to continue the emergency pumping of Lake Susan.

Mr. Gonzalez asked the Council if they wished to address the temporary sign issue that was discussed during Public Participation. There was consensus to bring the issue back as a regular agenda item.

Mr. Gonzalez asked for Council permission to pursue the purchase of 300 Alexandra Woods the property is in foreclosure. There was consensus for Mr. Gonzalez to research the issue.

**XIII. Adjournment**

The meeting adjourned at 11:50 p.m.

**APPROVED  
CITY OF DeBARY  
CITY COUNCIL**

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**Bob Garcia, Mayor**

**ATTEST:**

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**Stacy Tebo, City Clerk**