

City of DeBary
SPECIAL CITY COUNCIL MEETING
Wednesday
July 29, 2009
6:00 PM
City Council Chambers
16 Colomba Road
DeBary, Florida 32713

MINUTES

I. Call to Order

Mayor Garcia called the meeting to order at 6:00 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 Assistant City Attorney Dan Langley

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

Don Neyer, 207 E. Highbanks Road, discussed his views on the proposed millage rate for the City. He advocated an increase of the rate to build up an emergency fund for storms and to save for a new fire station.

IV. Approval of Minutes

1. Regular City Council Meeting Held April 15, 2009

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

V. Additions, Deletions, or Amendments to the Agenda

Mayor Garcia requested the two items under Old Business be switched and the FEMA item discussed first. He also requested the addition of a discussion concerning the DeBary Corner BPUD Parcel #3, to Growth Management and Development Review.

Council Member Conoley requested the addition of a discussion regarding his public records request for all correspondence relative Progress Energy under New Business.

Vice Mayor Erickson made a motion to approve the changes to the agenda, and Council Member Conoley seconded. The motion passed unanimously.

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.

X. Old Business

1. Discussion of FEMA Buyout Program.

Mr. Gonzalez stated that the FEMA Home Buyout is to have FEMA provide 75% of the appraised value of the home, and the homeowner's share would be 25% of the appraised value. He noted that there has been some confusion regarding the amount that the City would contribute. He added that \$67,000 was the cap discussed at the February 18th meeting when the Council said they would contribute, which would amount to 5% of the 25% of the homeowner's portion plus the administrative cost.

Mr. Gonzalez informed the Council that the Collins property closed first, and the City contributed 5% of the net purchase price of the property, instead of 5% of the 25%.

Mr. Seelbinder briefly explained the numbers and stated that he recently discovered the discrepancy.

In fairness to the other homeowners in the program, there was a discussion to increase the City's contribution from the original 5% of the 25%, to 5% of the net purchase price.

There was a lengthy discussion on how the confusion began.

FEMA Buyout consultant Don Ward stated that former city manager, Maryann Courson, directed him to pay the Collins family 5% of the net sales price of the house.

The Council members voiced their dissatisfaction that the payout was not handled according to their original direction.

Vice Mayor Erickson made a motion to pay the remaining nine homeowners 5% of the net purchase price, plus 25% of the administrative cost. He added that his motion superseded the motion the Council previously made on February 18, 2009, that states that the payment will be 5% of the 25%. Council Member Marks seconded. The vote passed 4-1, with Council Member Conoley dissenting.

Elaine Swanson, 123 Pine Valley Court, praised the Council, Don Ward and David Hamstra for their efforts in bringing the matter to a just ending.

IX. Growth Management and Development Review

2. DeBary Corner BPUD Parcel #3.

Mr. Gonzalez asked Mr. Langley to discuss the types of business that are allowed on the parcel, as part of the property is in the overlay. Mr. Langley said that three quarters of the property is in the Planned Unit Development (PUD) that allows type "A" and "B" restaurants on the property. He clarified that type "A" restaurant is a dine-in restaurant, and type "B" is everything else, including a drive thru restaurant.

The discussion and consensus of the Council was to treat the parcel as outside of the overlay. Mr. Langley stated that the reason the item was brought up is because the Council has only ten days to appeal the interpretation of the city manager, and there would need to be a special meeting called if the Council wished to appeal. Mr. Gonzalez stated that to summarize the discussion, Parcel #3, according to what was approved in the PUD, would allow for Type "A" and Type "B" restaurants.

John Likakis, 38 Seminole Drive, stated that part of the property was under water during the recent storms; that he does not think the property is buildable; and that the Council should consider the environmental impact.

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 #09-09 – Adopting a Preliminary Ad Valorem Tax Rate for FY 2009-/2010.

Mr. Langley read Resolution #09-09 aloud by title. Council Member Conoley made a motion to set the Preliminary Ad Valorem Tax rate for fiscal year 2009-2010 at 2.57279. Council Member Marks seconded the motion.

Council Member Lenzen stated that the City will be short six hundred thousand dollars at that millage rate; that DeBary cannot stay at 2.57279, and the Council should ease the number up in the future; that for now, the Council needs to keep the rate; and that now is not the time to increase the rate.

Council Member Marks agreed with Council Member Lenzen and said the City has to live within a budget. He added that he would like to see a 5% and 10% reduction in every department.

Council Member Conoley stated that the roll back rate is actually a roll forward rate this year.

Mayor Garcia asked if any citizens wished to speak on the issue, and no one came forward.

Mayor Garcia called for a vote on the motion to approve. The motion passed 4-1, with Mayor Garcia dissenting.

Budget Workshop dates were set for August 15th (Saturday) from 9AM until 5PM, and for August 24th (Monday) at 6PM, if needed.

Mr. Seelbinder stated that the first public hearing on the budget would be on September 2nd, and the final reading would be on September 16th.

X. Old Business

2. Discussion of Forensic Audit Agreement with Berkowitz Dick Pollack & Brant.

Mr. Seelbinder stated that since the last Council Meeting, he received a bill from the auditor. He stated that after negotiations, \$3,258.93 was removed from the bill leaving a current bill in the amount of \$4,826.07. He informed the Council that the auditor would notify Mr. Gonzalez if there are areas of concern, and if additional expense is needed up to the limit of \$8,000.00.

XI. New Business

1. Discussion by Council Member Conoley Regarding Progress Energy Public Records Request.

Council Member Conoley voiced concern about the forest behind his home and said it might become a fire hazard. He stated that he asked the City's Code Enforcement Officer to request Progress Energy to make a fire line on their property, but he has not received any feedback from that request. He informed the Council that he has made a public records request through Mr. Gonzalez to have all correspondence to or from Progress Energy for the past twenty-four months. He added that he would be writing a letter to the president of Progress Energy as a private citizen.

IX. Growth Management and Development Review

1. Discussion of the Comprehensive Plan

Shalene Estes, planner with GAI Consultants, began the discussion with Section Nine, Housing. Vice Mayor Erickson discussed 9.103, and there was agreement to delete from "At a minimum..." to the end of the section.

The Council agreed to delete 9.105.

Ms. Estes noted that she would ensure that the terms in 9.2 are defined in the glossary, and she would change "HRS" to "AHCA".

There was discussion regarding the use of the words "shall" and "may". There was consensus to change the last sentence of 9.201 to read, "The following general principles may apply."

Ms. Estes said that 9.202 b. should be amended to reference the HUD Code. She added that in 9.202 c., "HRS" should be replaced with "AHCA".

There was agreement to delete 9.203, 9.204, 9.301, 9.302, 9.304, and 9.305.

The Council then discussed Section Ten, Capital Improvements.

There was extensive discussion regarding the words development and redevelopment in 10.1. There was consensus to add the words "associated with public facilities" to the end of the last sentence.

Ms. Estes said 10.101 should be reworded as the City has already established a process.

Mr. Seelbinder asked the Council to turn to 10.201 and said that three years should be changed to seven years in letter a. There was consensus to delete letter b.

Mr. Seelbinder said that 10.206 is outdated. There was consensus to delete it entirely.

Mr. Hamstra recommended the deletion of 10.103 d. and gave an example of the recent NRCS grants that were used to complete projects. The Council agreed with his recommendation.

There was lengthy discussion regarding 10.106. There was consensus to change “will” to “may” in the policy and to delete letter e.

There was extensive discussion of 10.107.

Vice Mayor Erickson moved to extend the meeting two hours, and Mayor Garcia seconded. The motion passed unanimously.

Ms. Estes spoke about 10.108 and suggested removing the words “programming process” and replace them with “program”. The Council members agreed.

Mayor Garcia noted that in 10.201, they would need to change three years to seven and delete letter “b”.

Council Member Lenzen said he believed 10.202 should be deleted, and the other members agreed.

Mr. Seelbinder stated that the City collects impact fees, so 10.203 should be deleted.

In 10.204, there was consensus to add “impact fees” to the second sentence and to change the word “development” to “infrastructure” in the first sentence.

The Council then discussed Section Eleven, Intergovernmental Coordination.

Mayor Garcia noted that 11.102 a. should be changed to “Volusia County Public Works Services” and that letter f. should be changed from “Southern States Utilities” to “Florida Water Service Corps”.

Council Member Marks suggested that “Fire District” be replaced with “Fire service provider” in 11.108 d.

Vice Mayor Erickson suggested that the “15 days” might be changed to “30 days” in 11.201 and that the word “will” could be changed to “may”. He added that the “will” should be changed to “may” in 11.2 also.

XII. Council Member/Committee/Staff Reports

1. Member Reports/Communications
 - A. Mayor and Council Members
 - B. City Attorney
 - C. City Manager

Due to the hour, there were not any Council member or staff reports.

XIII. Adjournment

The meeting adjourned at 11:39 p.m.

**APPROVED
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk