

**City of DeBary**  
**REGULAR CITY COUNCIL MEETING**  
**Wednesday**  
**January 6, 2010**  
**7 PM**  
City Council Chambers  
16 Colomba Road  
DeBary, Florida 32713

**MINUTES**

**I. Call To Order**

Mayor Garcia called the meeting to order at 7:02 p.m.

**II. Roll Call**

**Members Present:** Mayor Bob Garcia, Vice Mayor Norm Erickson, Council Member Van Conoley, Council Member Jack Lenzen, and Council Member Leonard Marks

**Others Present:** Interim City Manager Cassandra Blissett, City Clerk Stacy Tebo, Finance Administrator Jimmie Seelbinder, City Attorney Kurt Ardaman, 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.

Donald McGrath, 116 Lower Lake Court, congratulated the City on the progress being made with the stormwater projects. He said he wanted compensation for the residents of Lower Lake that flooded during Tropical Storm Fay.

Eugene Stump, 106 Birkwood Court, said he wanted to thank the Council members for their hard work. He pointed out an area needing cleanup on East Highbanks Road.

**IV. Approval of Minutes**

None.

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

Council Member Conoley added a discussion of the DeBary Library under New Business.

**VI. Presentations**

1. Introduction of New K-9 ASCO.

The Volusia County Sheriff's Department K-9 handler brought ASCO to the front of the Chambers.

2. Certificate of Appreciation to the Animal Welfare Foundation and Lorrie Nassofer for their Donation.

Mayor Garcia presented the certificate to Ms. Nassofer and thanked her for the Animal Welfare Foundation's \$5,000 donation to assist with the purchase of ASCO.

Captain Alan Osowski thanked the citizens for their help with the purchase of the new K-9 Officer. He said ASCO would begin working in DeBary on January 25<sup>th</sup>.

3. Presentation by Economic Development Advisory Committee Chair Sid Vihlen, Jr.

Chair Sid Vihlen, Jr. noted that Ms. Blissett and Council Member Lenzen were present for the Committee meeting. He informed the Council that a presentation was made by the Economic Development Department of Volusia County; that Volusia County has a fully funded economic development staff; that the staff is available to serve incorporated areas, as well as the County, free of charge; and that the Committee agreed it would be a good resource to use for soliciting business and employment for the City Of DeBary. He said the Committee would be working on completing the City brochure at their next meeting.

Council Member Lenzen thanked the Committee members for their service. He said Mayor Garcia and Council Member Conoley had previously expressed their appreciation to the Committee.

Mayor Garcia asked about available funds for economic development. Chair Vihlen answered that there were no direct monies for independent economic development; however, DeBary could join with the County's efforts if there were an independent business client who was interested in opening or expanding business. He noted there would be no cost to DeBary.

Council Member Marks said he appreciated what the Economic Development Committee was doing for the City.

4. Update on Streetscape Advisory Committee by Interim City Manager Cassandra Blissett.

Ms. Blissett said there was a meeting scheduled to discuss the bus shelter. She noted that those in attendance would be the following: the Department of Transportation, Votran, staff, a member of the Streetscape Committee, and Mr. Leonard with Spencer Fabrications. She said they were also drafting a letter to be sent to establishments in the community regarding potential partnership opportunities. She added that they would also be updating the adopt-a-planter listing.

Mayor Garcia asked if there was assistance available from Votran. Ms. Blissett answered that Votran would have a grant program available for discussion in the future.

## **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 #01-10 – First Reading – Amendment to the DeBary Golf and Country Club Planned Unit Development for the 1.151 Acre Parcel Located At 100 DeBary Plantation Boulevard, File# GAI-09-01 REZ.

Mr. Langley read Ordinance #01-10 aloud by title.

Shalene Estes, planner with GAI Consultants, briefed the Council on the rezoning request from Ray Hagood to rezone to general and professional offices. She added that the applicant met the requirements for rezoning pursuant to the Land Development Code and the DeBary Comprehensive Plan.

The Council disclosed their ex-parte communications with Ray Hagood.

Mr. Hagood's attorney, Darren Elkind, said Mr. Hagood had engaged the community to find out what they desired for the property, and the overwhelming response was professional offices.

Mr. Hagood stated that he was unaware of the zoning issue when he had purchased the property; that he found out about the zoning when he went to the bank to refinance the property; that he went to the City Council in 2007 and thought he had approval to stay at the property and remain a sales office; that after the flooding in September of 2008, he waited for the city for several months, thinking the city manager at the time might offer to buy the property; that he also made an application to FEMA for the buy-out program, but there was no action; that he could convert his building into seven apartments or use it as a community residential facility; and that he did not think the residents would like either option.

Jim Gangitano, 309 La Creek Court, voiced his support for Mr. Hagood's request and asked Council to approve the rezoning. He added that John and Shirley Fisher got over 800 signatures in support of the rezoning.

John Fisher, 317 Hampton Hills Court, said he supported Mr. Hagood's sales office proposal for rezoning.

Glen McNutt, 100 Barclay Court, said he disagreed with his neighbors, as a zoning change was not in the best interest of the community. He said the only reason the residents signed the petition was because they were threatened with the possibility of low income housing.

Thomas Pawlicki, 224 Birdiewood Court, said he was a commercial real estate broker, and the site should not be zoned as a commercial site. He added that there should be a buffer between commercial and residential property. He urged Council not to approve the rezoning.

Vice Mayor Erickson said the comprehensive plan had not changed since 2007 when the rezoning request was denied by a previous Council, and that because nothing had changed, he would have to say no.

Donald Ray Brown, 276 Hammock Oak Circle, said he knew Ray Hagood and felt he would not want anything bad for the community. He said he did not understand why anyone in the community would be against the rezoning.

Mike Kolba, 441 Quail Meadow Court, said there was nothing wrong with allowing additional professional offices on the property.

Eugene Stump, 106 Birkwood Court, voiced concern that the property was in a flood zone.

Mr. Langley outlined the current permitted uses allowed on the property.

Council Member Conoley asked what Mr. Hagood would do with the property if Council approved the rezoning. Mr. Hagood answered that he would occupy a part of it and lease the rest to other businesses for office use.

Council Member Marks said he wanted Council to be specific regarding what the land could be used for.

Ms. Estes said the ordinance excluded all uses except general professional.

Council Member Lenzen said an office building would be an appropriate use for the area. He voiced concern regarding the aesthetics of the building and asked that it be included in the agreement.

Mr. Langley said that Council could impose certain conditions on the property. He said they could ask for a rendering of the proposed building.

Mr. Elkind said that they had a rendering that included details of the proposed building and landscaping. Council Member Lenzen said he would also like to know the colors proposed for the building.

Mr. Elkind said they would fully cooperate with the Home Owners Association and the City.

Council Member Lenzen made a motion to approve Ordinance #01-10 on first reading and noted that the second reading would be scheduled for January 20, 2010. Council Member Conoley seconded the motion.

Council Member Conoley said he felt supporting the ordinance was the least damaging option.

Vice Mayor Erickson stated the ordinance was not specific enough; that the proposed use was inconsistent; that the landscaping map was not signed or stamped; that the flooding was an issue; and that he could not pass the ordinance due to these and many other concerns.

Council Member Marks stated that he was not in favor of mixing commercial with residential; that stormwater was a major issue; that there was not enough of a buffer zone; and that if the ordinance is approved, it would set a precedent.

Council Member Conoley said it was not an ideal solution; however, other options were less desirable, and he stood behind the motion.

Mayor Garcia asked for a vote on the motion to approve Ordinance #01-10. The motion passed 3 – 2, with Vice Mayor Erickson and Council Member Marks dissenting.

2. Resolution #10-01 – Adopting Growth Management Fees.

Mr. Langley read Resolution #10-01 aloud by title.

Ms. Blissett said the resolution would ensure all growth costs were covered and highlighted the proposed changes. She stated that the additions were underlined, and the deletions were noted by strikethrough text.

Council Member Marks made a motion to adopt Resolution #10-01, and Council Member Lenzen seconded. The motion passed unanimously.

3. Resolution #10-02 – Amending Budget for Fiscal Year 2008/2009.

Mr. Langley read Resolution #10-02 aloud by title.

Finance Administrator Jimmie Seelbinder said it was an internal or housekeeping amendment to amend the budget for fiscal year 2008/2009. He noted there were several things in the budget that were not correct because of FEMA. He said a big area of concern was the decline in tax revenue due to foreclosures. He also noted the increase in legal fees due to litigation.

Ms. Blissett explained that Mr. Seelbinder took historical data to get the figure for the legal fee budget, and in previous years it had come in under budget. She added that any unspent budgeted funds would roll into the reserve balance.

Council Member asked if they should table the budget amendment until the new city manager is hired.

Council Member Lenzen said the budget amendment was dealing with history, and it should be adopted.

Council Member Lenzen made a motion to approve Resolution #10-02. Vice Mayor Erickson seconded, and the motion passed unanimously.

4. Resolution #10-03 -- Authorizing Financing of Fire Tender

Mr. Langley read Resolution #10-03 aloud by title.

Ms. Blissett said she recommended approval for 3.94 percent at a five-year term. She noted that they lowered the prepayment penalty from 3-percent to 2.5-percent.

Council Member Marks said the percentage and terms were fine. He made a motion to approve Resolution #10-03. Vice Mayor Erickson seconded the motion, and it passed unanimously.

**IX. Growth Management and Development Review**

1. Final Site Plan for Phase I of the Presbyterian Church, File # GAI-09-03 FSP.

Ms. Estes stated that the church had been destroyed by a fire; that the site plan approval was for phase one; that it only included the multipurpose building; that they would be coming before Council again for phase two approval; that the church had been there since 1960; that it did not require a special exception application; and that the church had requested an early start, which is allowed by the Florida Building Code.

Vice Mayor Erickson asked if the parcel was divided. Ms. Estes answered that it is a single parcel, but the review was only for the single classroom building, and there would be a separate review for phase two. Ms. Estes noted that the conceptual plan indicated where the church building would be located.

James Senator, architect and general contractor for the project, stated that they wanted to move forward with the classroom building because they had a deadline of April 1st.

Vice Mayor Erickson asked Ms. Estes several questions regarding DRC and the requested revisions. Ms. Estes confirmed that the plan met what they requested and that it fell within the Gateway Standards.

Council Member Lenzen made a motion to approve the final site plan for phase one of the First Presbyterian Church. Council Member Conoley seconded the motion, and the motion passed unanimously.

2. Final Site Plan for Missionaries of Hope, File # GAI-08-12 FSP.

The Missionaries of Hope representative was not present.

Council Member Marks motioned that the item be tabled so Council could speak to the representative. Council Member Conoley seconded, and the motion passed unanimously.

3. Discussion of Pass Through Ordinance and Development Review.

Ms. Blissett said she distributed an email from Mr. Seelbinder regarding pay for professional services. She also noted that Steve Costa had circulated his suggestions to Council. She asked for Council comments regarding what they deemed appropriate to change in the ordinance.

Mr. Ardaman gave some background information on the ordinance and how it came about. He stated that at the time it was passed, there was concern that the City was paying for development, and it ultimately fell on the taxpayer's shoulders. He explained the difference between the hourly rate the City pays and the hourly rate that the developers pay.

Ms. Blissett stated that she believed the addition of an in-house planner would address a number of the concerns, but she believed it would be appropriate to address the issue when the new city manager is on board.

Council Member Lenzen said he agreed they should not take taxpayer's money to subsidize development, but there is no incentive for the consultant to do things in a timely manner. He said there was a need to be fair and comparable to other cities.

Council Member Conoley said he agreed with Council Member Lenzen and felt all Council agreed; however, he did not know how to make it better.

Steve Costa, 351 Lemon Avenue, said that the pass through ordinance was a problem with more than one developer. He said there needed to be a reasonable fee comparable to other cities and that people did not want to do business in DeBary because of the cost.

Council Member Conoley made a motion to extend the meeting time until 11:15. Council Member Lenzen seconded, and the motion passed unanimously.

Council Member Conoley asked Mr. Seelbinder to comment on the issue.

Vice Mayor Erickson said he did not know if it was the language or enforcement of the ordinance that caused problems.

Ms. Blissett said she would come back with some recommendations based on Council comments.

Mayor Garcia asked for a motion to have Ms. Blissett bring the issue back before Council. Vice Mayor Erickson motioned that Council explore it again. Council Member Conoley seconded, and the motion passed unanimously.

## **X. Old Business**

### 1. Discussion of City Manager Interviews.

Ms. Blissett said Mr. Chumley was working on background checks to be delivered to Council by the thirteenth. Mr. Ardaman said each Council member had a packet showing progress on candidates.

Ms. Blissett asked Council what they wanted to do about travel for one of the candidates. There was consensus not to interview Mr. Ventresco.

Vice Mayor Erickson suggested that the contract be sent to the applicants for review. He asked that the results of the background check be sent to his house.

Council Member Conoley suggested that after the interviews, they could take a thirty minute break and then come back to make a decision. He asked that the city attorney attend the meeting so the chosen candidate could sign the contract, and Ms. Tebo could notarize the contract. He said he also wanted to move forward with Ms. Blissett's contract as a consultant. He suggested they draw names to determine the order in which the candidates would be interviewed.

Council Member Conoley moved to extend the meeting fifteen minutes. Council Member Marks seconded, and the motion passed unanimously.

The Council members drew names, and the order of interviews was determined. The order was Mr. Otte, Mr. Drago, Mr. Parrott, and Mr. Marro.

There was Council consensus for Mr. Ardaman to change the contract to three years instead of two years and to send it to the applicants.

The Council agreed to discuss it further at the next meeting.

## **XI. New Business**

### 1. RFQ #16-09 for Professional Engineering Services.

Ms. Blissett said the City received seventeen responses, and she recommended that the City enter into contracts with four engineering firms. She said the four firms were Finley Engineering, Pegasus Engineering, CPH Engineers, and Quentin Hampton & Associates.

Vice Mayor Erickson motioned that Ms. Blissett move forward with negotiations with the four engineering firms she recommended. Council Member Marks seconded, and the motion passed unanimously.

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

2. The DeBary Library.

Council Member Conoley suggested the Council consider sending a letter to the County saying the City stood behind the DeBary Library, and they did not want the library hours cut. He made a motion for the Mayor to send the letter. Council Member Marks seconded, and the motion passed unanimously.

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

1. Board / Committee Appointments  
SunRail Technical Advisory Committee Representative - City Council

Vice Mayor Erickson made a motion to appoint the city manager as the representative. Council Member Conoley seconded. The motion passed unanimously.

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

Mayor Garcia spoke briefly about the SunRail meeting. He said he brought up all of the Council's concerns that had previously been raised by individual members.

Council Member Marks voiced concern regarding the rising lake levels.

Council Member Lenzen said he received a letter requesting citizen input on long-range transportation, and he would forward it to Vice Mayor Erickson.

Council Member Conoley requested that a discussion regarding unemployment be placed on the January 21<sup>st</sup> agenda.

B. City Manager

Ms. Blissett said that Ms. Love was not ready with the gambling ordinance, but it should be ready for the next meeting.

She informed the Council that the West Volusia Summit has been scheduled for January 23<sup>rd</sup> in Deland.

C. City Attorney

Mr. Ardaman had nothing to report.

**XIII. Adjournment**

The meeting was adjourned at 11:53 p.m.

**APPROVED  
CITY OF DeBARY  
CITY COUNCIL**

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**Bob Garcia, Mayor**

**ATTEST:**

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**Stacy Tebo, City Clerk**