

**City of DeBary**  
**REGULAR CITY COUNCIL MEETING**  
**Wednesday**  
**January 20, 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 Kassandra Blissett, City Clerk Stacy Tebo, 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.

Alex Ford, attorney for Florida Residential Communities, stated that his client sent a letter to the city manager requesting an interpretation of comprehensive plan policies 5.401 and 5.406 as they relate to a parcel near the intersection of Highbanks Road and Fort Florida Road. He asked the Council to place the discussion on the next agenda for Council to make an interpretation.

Mr. Langley said there was not a set procedure to interpret the policies, and because there was not a policy in place, it was up to Council how it wanted to proceed.

Mr. Ford stated that he was looking for direction from Council on how the parcel could be used; that one policy identified the parcel as agricultural and another said it was not; and that he would like Council to address it because of the ambiguity. Mr. Langley said he agreed that the policies were not clear.

Mayor Garcia advised Mr. Ford to contact Ms. Blissett to find out when the item would be on the agenda.

Don McGrath, 116 Lower Lake Court, thanked the Council members for the improvement in their behavior towards each other.

**IV. Approval of Minutes**

1. City Council Workshop held June 2, 2009.

2. Regular City Council Meeting held June 3, 2009.
3. City Council Workshop held June 11, 2009.
4. Regular City Council Meeting held June 17, 2009.
5. City Council Workshop held June 20, 2009.
6. City Council Workshop held June 23, 2009.

Council Member Conoley made a motion to approve the first three sets of minutes. Vice Mayor Erickson seconded the motion, and it passed unanimously.

Council Member Conoley said he had not read the last three set of minutes and requested that Council approve them at a later date. The other Council members agreed.

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

Council Member Marks added a discussion of gambling as item three under Old Business.

Ms. Blissett asked to add an item regarding Glen Abbey signage. Mayor Garcia added it as item six under New Business.

#### **VI. Presentations**

1. Certificate of Recognition to Amberly Stewart.
2. Certificate of Recognition to Robert Martin.

Amberly Stewart and Robert Martin were not present to accept the certificates. Mayor Garcia said that Amberly Stewart and Robert Martin saw a fire at the Highbanks Marina and woke residents up to warn them of it.

3. Update from Ken Webster and Mike Beeghly of the Historic Preservation Advisory Board.

Vice Chair Mike Beeghly updated the Council on the Board's activities. He stated that there would be a link on the DeBary website to view historical documents; that the Board had preserved 322 documents to date; that they had identified eight categories of documents; that they had more than 700 photos; and that the Board had discussed starting a project for the preservation of photos.

Mayor Garcia noted that the Board was having trouble getting volunteers. He added that Mr. Webster's second term was almost up, and there was a two-term limit for serving on the Board.

Council Member Lenzen asked why they could not eliminate term limits.

Chair Ken Webster said he would send something in writing to request an amendment to eliminate term limits.

4. A Unique Business Plan for Volusia County by Stephen Bacon.

Mr. Bacon said the business plan for DeBary should capitalize on the beauty and wildlife in the area. He said his plan included attractions for local and international tourists. He detailed his plan for the Council.

Vice Mayor Erickson said he wanted to be on the record that he was not in favor of the things listed by Mr. Bacon. He said proposals should be written for the Council to read.

Council Member Lenzen agreed that Council should have received the proposal in writing.

## **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 item:*

1. Ordinance #01-10 – Second 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.

The Council members disclosed their ex-parte communications. Mr. Langley noted that an email was received by a resident asking the Council to approve the ordinance. Mayor Garcia added that he received an email from Mr. Pawlicki asking for the Council to deny.

Jim Gangitano, 309 La Creek Court, said he was on the board of the DeBary Golf and Country Club Home Owner's Association, and the majority of residents wanted it approved.

Tom Pawlicki, 224 Birdiewood Court, said he did not agree with Mr. Gangitano. He said he had worked in commercial real estate for a long time, and he felt residents were being coerced to agree with the rezoning.

Barbara Sipler, 193 Hammock Oak Circle, said the property had always been a sales office, and she did not see a reason to deny the ordinance.

Mike Kolba, 441 Quail Meadow Court, said he did not sign the petition, but he was in agreement with the ordinance.

Anne Nunnery, 232 Eagle Estates Drive, said she and other residents of Eagle Estates wanted the sale office to remain.

Council Member Conoley asked if Council's decision on the zoning change would set a precedent. Mr. Langley answered it would not.

Council Member Marks said his denial would be based on information from ordinances and the comprehensive plan. He referenced various policies from the comprehensive plan. He also noted there was not enough of a buffer between the commercial and residential areas, and the area in question has flooded twice.

Council Member Lenzen made a motion to adopt the ordinance on second reading. Council Member Conoley seconded the motion.

Vice Mayor Erickson said he had mentioned his reason for denial based on the codes in the last meeting. He asked if there was anything to prevent future citizens from using the property as an example. Mr. Langley answered no. Vice Mayor Erickson also mentioned the future land use map, and he said approval of the ordinance would not be consistent with the future land use map.

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

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

None.

## **X. Old Business**

1. Facilities Use Agreement with DeBary Little League.

Ms. Blissett said that every year the City and Little League enter into an agreement and outlined the details for the Council.

Council Member Marks made a motion to approve the agreement, and Council Member Lenzen seconded. The motion passed unanimously.

2. Update of Stormwater Capital Improvement Budget.

Stormwater Engineer David Hamstra updated the Council and noted that they had a bid opening the previous day that came in well below the engineer's estimate. He went over six items that had changed since the last stormwater update.

Council Member Marks asked if the City received the pumping reimbursement from FEMA, and Mr. Hamstra responded that the appeal was still underway.

Council Member Conoley asked a question regarding 300 May Place. Mr. Hamstra said he had received direction to look into purchasing the property if they received the grants at a previous Council meeting or workshop. Council Member Conoley said his understanding was that Council had approved the study of 300 May Place and nothing else.

Council Member Lenzen said he remembered that the least costly of the four options Mr. Hamstra presented was to purchase the property. However, he said he recalled that the Council felt it was not a priority.

Mr. Hamstra explained there was a two-week window to apply, and he approached Ms. Blissett when he found out there was newly available FEMA funds.

Ms. Blissett said her intent was to update the Council; that she had acted because the issue was time sensitive; but that the application did not bind the City in any way. She added that if and when the grant was approved, she would present it to Council.

Council Member Conoley voiced dissatisfaction that staff was pursuing the grant without getting specific Council authorization. Ms. Blissett noted that the property had been placed on a list for grant money over a year ago.

Mr. Hamstra explained that he saw an opportunity to get \$300,000 in grant money to rid the City of the cost and problems associated with pumping at 300 May Place. Ms. Blissett said she had given clear direction to Mr. Hamstra to proceed with looking into the grant.

Donald McGrath, 116 Lower Lake Court, said his only concern was the area he lived in and asked if his lake would be pumped. Mayor Garcia said it would.

Mike Kolba, 441 Quail Meadow Court, thanked The Briar Corporation. He asked how the pumps would work if there was a power outage. Mayor Garcia answered that they had already discussed obtaining generators for those situations.

Nick Koval, 296 Adelaide Street, asked about James Pond and why the project was always on hold. Mr. Hamstra answered that the underground pump station is no longer needed because only three of the flooded homes remain, and there has been an installation of a twelve-inch line that can move water very quickly.

Vice Mayor Erickson made a motion to approve modifications (projects and budget) to the current Stormwater Capital Improvement Program in order to finalize the existing projects (three (3) lake interconnect projects, Lake Maud / Olivia to Lake Susan Outfall Improvements, Pine Valley Court Drainage Improvements, and the No Name Lake Outfall Improvements) and to continue to move forward with the new projects (Lakeside Gravity Outfall Improvements, Naranja Road / 2<sup>nd</sup> Street Drainage Improvements, and Lake Monitoring Program). Council Member Conoley seconded, and the motion passed unanimously.

George Coleman, 286 Deleon Road, offered to provide the Council with historical information regarding 300 May Place.

### 3. Gambling Discussion.

Council Member Marks said he received a draft ordinance from Ms. Love that he wanted to refer to the attorney for review. He asked that it be scheduled for first reading at the next meeting.

Mr. Langley stated that he has some concerns with the draft; that the ordinance tries to outlaw gambling; that there is already State law that covers gambling; and that he is unsure what the draft's intent is. He suggested two areas the City might want to regulate pertaining to card rooms and zoning.

Vice Mayor Erickson said he would like to add language as a basis for future Councils to make decisions. He said he was in favor of the ordinance and creating specific language.

Mary Love, 345 McLaren Lane, spoke about various cities that she researched and noted that the City of Sanford had passed ordinances that made it impossible to build a gambling establishment within their city. She explained how she compiled the information for the Council.

Mr. Langley asked for Council direction.

Council Member Lenzen said that gambling was a morality issue, and he did not feel it was his job to tell adults what they could and could not do.

Ms. Blissett said that Council could motion to exercise their local authority to have Mr. Langley draft an ordinance to disapprove card rooms in the City.

Council Member Marks made a motion for Mr. Langley to draft an ordinance prohibiting card rooms in the City. Council Member Conoley seconded, and the motion passed 3 – 2, with Mayor Garcia and Council Member Lenzen dissenting.

## **XI. New Business**

1. West Side Emergency Flood Management System – Change Order Number 2 for The Briar Team.

Ms. Blissett said that both Mr. Hare and Mr. Hamstra recommended the change order for \$22,678.60 to be paid from contingency. She noted that the change order would avoid delays to the project.

Vice Mayor Erickson motioned to approve the change order, and Council Member Lenzen seconded. The motion passed unanimously.

2. Discussion of No Name Lake Outfall System Modifications.

Mr. Hamstra gave a presentation regarding the project and said it would take approximately six months to complete. He recommended that the Council approve the transfer of unused fees from the James Pond Pump Station project to perform the required survey for the No Name Lake Outfall System modifications. He added that Pegasus would complete the engineering and permitting of the No Name Lake Outfall System modifications in lieu of the previously proposed No Name Lake to Gem Lake Interconnect.

Council Member Conoley asked Mr. Hamstra to go over the cost estimates he listed again. Mr. Hamstra said he was not asking for additional funds, he was just asking to move money between projects.

Vice Mayor Erickson motioned to approve Mr. Hamstra's recommended modifications. Council Member Marks seconded, and the motion passed unanimously.

3. Discussion of Possible Acquisition of 211 Plumosa Road For the Stormwater Capital Improvement Program.

Mr. Hamstra said the property owner approached the City with an offer to sell the property. He recommended that the City consider the purchase in the future as part of the Stormwater Capital Improvement Program when the City has more money in its budget.

Vice Mayor Erickson motioned not to proceed with the acquisition of 211 Plumosa Road. Council Member Conoley seconded, and the motion passed unanimously.

4. Independent Contractor Consultant Agreement with Cassandra Blissett.

Mr. Langley explained that the agreement provides for Mr. Blissett to be a temporary consultant after the City hires a new city manager. He asked for Council direction regarding the duration of the agreement and the hourly rate.

Ms. Blissett suggested a rate of fifty dollars per hour. The Council found the amount acceptable.

Council Member Conoley said he wanted the agreement to have a specific start and end date for the agreement. There was Council discussion regarding the duration, and the consensus was thirty days.

Vice Mayor Erickson made a motion to approve the consultant agreement as discussed by Council. Council Member Conoley seconded, and the motion passed unanimously.

5. Discussion of Unemployment by Council Member Conoley.

Council Member Conoley said he wanted to help unemployed DeBary residents by allowing them to post their resumes on the City's website.

Mr. Langley recommended that Council consider what they would open themselves up to by letting private citizens post to the City's website.

Council Member Lenzen stated that he thought the City's website was not appropriate for that use; that it would also increase the burden on staff; that he believed the intent was good; but that the cost and drawbacks were not worth it. Vice Mayor Erickson agreed.

6. Glen Abbey Signage.

Ms. Blissett asked if the Council would like to research the issue of taking responsibility for the signage. Council Member Lenzen said no.

Mr. Langley explained that a gentleman was claiming the signage was on the City's right-of-way, and it would require extensive research and a title search to find out who is responsible.

Vice Mayor Erickson motioned not to pursue the issue further. Council Member Lenzen seconded, and the motion passed unanimously.

Council Member Conoley moved to extend the meeting fifteen minutes.

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

1. Board / Committee Appointments

Historic Preservation Advisory Board

Regular Member

Council Member Marks

Council Member Marks said they could wait until the ordinance is amended to delete term limits.

2. Member Reports/Communication

Danny Allen, VGMC representative, informed the Council that Miami Corp was pursuing their Farmton project, and they should have received information via email.

There was Council discussion regarding the project and the water supply.

A. Mayor and Council Members

Mayor Garcia informed the Council that he had sent the letter regarding the DeBary Library that was previously discussed by Council.

Mayor Garcia said Mr. Drago had a problem with the city manager contract. He said Mr. Otte withdrew his application.

Vice Mayor Erickson motioned to extend the meeting fifteen minutes.

Vice Mayor Erickson asked for a status update on the audit. Ms. Blissett said they are awaiting a visit from the auditor.

Ms. Blissett suggested Council move up Mr. Parrot's interview time since Mr. Otte dropped out. The Council agreed.

Council Member Lenzen said he had spoken to three candidates who had problems with the contract. He said that the Council should be open to making minor changes to the contract.

There was a discussion about the lunch break parameters in the contract.

Vice Mayor motioned to extend the meeting fifteen minutes.

B. City Manager

Ms. Blissett reminded everyone of the upcoming West Volusia Summit on Saturday.

Ms. Blissett said that the Economic Development Advisory Committee wanted to have a joint meeting with Council. She added that the Committee also suggested a photo contest for pictures to be included in the DeBary brochure.

Vice Mayor Erickson made a motion to approve the photo contest, and Council Member Marks seconded. The motion passed unanimously.

C. City Attorney

Mr. Langley had nothing further to report.

**XIII. Adjournment**

The meeting adjourned at 11:35 p.m.

**APPROVED  
CITY OF DeBARY  
CITY COUNCIL**

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**Bob Garcia, Mayor**

**ATTEST:**

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**Stacy Tebo, City Clerk**