

City of DeBary
REGULAR CITY COUNCIL MEETING
Tuesday
August 17, 2010
7 PM
City Council Chambers
16 Colomba Road
DeBary, Florida 32713

MINUTES

I. Call To Order

Vice Mayor Erickson called the meeting to order at 7:00 p.m.

II. Roll Call

Members Present: Vice Mayor Norm Erickson, Council Member Handy-Peters, Council Member Jack Lenzen, and Council Member Leonard Marks

Members Absent: Mayor Bob Garcia (excused)

Others Present: City Manager Dan Parrott, Assistant City Manager Cassandra Blissett, City Clerk Stacy Tebo, Planning Administrator Rebecca Hammock, and City Attorney Kurt Ardaman

III. Committee Reports

None.

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

Marlee Grein, 34 Naranja Road, requested that the Council direct the city manager to send out a postcard to all the DeBary residents to ask them if they favored having offices for Council members.

V. Approval of Minutes

1. Special City Council Meeting held May 20, 2010.
2. Regular City Council Meeting held June 2, 2010.
3. City Council Workshop held June 16, 2010.
4. Regular City Council Meeting held June 16, 2010.

Vice Mayor Erickson moved to approve all the minutes as presented. Council Member Lenzen seconded, and the motion passed unanimously.

VI. Additions, Deletions, or Amendments to the Agenda

None.

VII. Presentations

None.

VIII. 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.

IX. 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 #09-10 – Public Hearing of the Local Planning Agency (LPA) – Small Scale Future Land Use Map Amendment from Commercial/Office and Residential/Low Density to Commercial/Retail on 2.27 Acres Located East of I-4 at the Corner of DeBary Avenue and Lake Shore Drive for a RaceTrac Gas Station and Convenience Store.

Vice Mayor Erickson made a motion to convene as the LPA, and Council Member Marks seconded. The motion passed unanimously.

Vice Mayor Erickson asked Mr. Ardaman to discuss the difference between the LPA and the Council and the process utilized to consider the application. Mr. Ardaman also explained the difference between a legislative hearing and a quasi-judicial hearing. Vice Mayor Erickson noted that there is a lower threshold for a basis of approval and denial, and Mr. Ardaman agreed.

Council Member Marks declared ex-parte communication with a group of citizens concerned with the application.

Planning Administrator Rebecca Hammock presented the request to develop a RaceTrac gas station and convenience store. She stated she received a letter from the City of Deltona supporting the application.

Tom Sullivan, attorney for the applicant, gave a presentation regarding the proposed RaceTrac to the Council and asked them to approve the future land use map amendment.

Brett Myers, 369 Magnolia Place, voiced concern regarding light infiltration from the store impacting the nocturnal animals that live in the wetlands. He also spoke about fuel saturation in the wetlands and Lake Monroe and the negative impact on the environment.

Adrian Zvorych, 377 Magnolia Place, said he is not opposed to development, but he has concerns about his community's drinking water supply, the hazards due to an increase in u-turns for those exiting I-4, and noise from possible deliveries being made during the night to the 24-hour store.

Marie Myers, 369 Magnolia Place, spoke about multiple concerns including traffic difficulties, problems with vagrants in the area, the RaceTrac property being nine feet above the water, and the fact that everything would run downhill from the gas station to the river.

Sunny Nequette, 363 Magnolia Place, voiced concern regarding light pollution, increased traffic, and the detrimental effect on the wildlife, especially the endangered species.

Greg Williams, 363 Magnolia Place, voiced opposition to the proposal because it would increase the traffic backup and destroy the beautiful enclave they currently enjoy.

Carolyn Evans, 388 Magnolia Place, said that she did not receive notice of a public hearing and felt that letters should have been sent to the adjacent property owners. She noted that there is commercial property directly across the street that is appropriate for a gas station. She stated that the RaceTrac property is higher than all the surrounding houses; that it is impossible to shield the light from the residents; and that it would absolutely cause light pollution to the adjoining neighborhood.

Ms. Hammock said the City ran a newspaper advertisement as required, but there are not adjacent property owner notification requirements for the LPA hearing.

Joseph Miller, 390 Magnolia Place, noted there is not any vegetation between his sister's property and the proposed gas station, and the trees mentioned by the applicant are on his sister's property.

Barbara Nenno, 384 Magnolia Place, said people from other cities have spoke about the plan, but no one from DeBary has said anything. She said the gas station would only benefit Deltona as most of the traffic leaving I-4 turns to Deltona instead of DeBary. She asked the Council to deny the application.

Philip Farnstrom, 384 Magnolia Place, noted the large turnout for the hearing and pointed out that no one spoke in support of the application.

Rich Gailey, 341 Magnolia Place, suggested that the applicants pursue a site for the gas station in Deltona.

Ed Sullivan, resident of Enterprise, spoke about the definitions of R-4 and B-9 zoning. He stressed that B-9 zoning should provide a transitional area between residential and commercial, and a RaceTrac gas station is a very intensive use.

Vice Mayor Erickson moved to recommend denial of the application to the City Council, and Council Member Marks seconded.

Vice Mayor Erickson said it contravenes the comp plan and does not want to negotiate a BPUD.

Council Member Marks said he wants to preserve the residents' quality of life and protect the environment.

Council Member Handy-Peters said she drove through the area before the meeting and is not in favor of a gas station in that location.

Council Member Lenzen said he would love to bring in development, but the use is too intense for the area.

Vice Mayor Erickson asked a vote on the motion to deny, and it passed unanimously.

Vice Mayor Erickson made a motion to close the LPA and reopen the Council meeting. Council Member Lenzen seconded, and the motion passed unanimously. The Council took a five-minute recess.

X. Growth Management and Development Review

None.

XI. Old Business

- 1. Florida League of Cities Voting Delegate – 84th Annual Conference.

Mr. Parrott stated that Mayor Garcia had a death in the family and could not attend the conference. Council Member Marks made a motion to appoint Council Member Lenzen as the delegate, and Vice Mayor Erickson seconded. The motion passed unanimously.

XII. New Business

- 1. Request for Extension by GAI Consultants to Master Agreement for Construction Engineering and Inspection Services.

Mr. Parrott stated that the City currently uses two companies for CEI services and recommended they extend GAI’s contract for one year. He noted that approval does not obligate the City to authorize any additional work to GAI, and additional work would only be authorized by written work order after proposals are accepted and analyzed from both GAI and Quentin L. Hampton.

Vice Mayor Erickson made a motion to approve the request from GAI for a one year extension to the Master Agreement for CEI services. Council Member Handy-Peters seconded, and the motion passed unanimously.

- 2. Discussion Regarding C3 Construction, LLC, and its Surety, American Contractors Indemnity Co., for Reimbursement and Payment Associated with the Failure of the Park Lane and Seminole Drive Stormwater Projects.

Mr. Ardaman briefly summarized the events that had transpired and the actions taken by his office to recover the payment from the bonding company.

Vice Mayor Erickson made a motion to authorize the City to file suit against C3 Construction, LLC and American Contractors Indemnity Company. Council Member Marks seconded, and the motion passed unanimously.

XIII. Council Member/Staff Reports

- 1. Board/Committee Appointments
Public Safety Advisory Committee
Alternate Member At-Large

Council Member Marks made a motion to appoint Stephen VanRavenswaay, and Council Member Handy-Peters seconded. The motion passed unanimously.

Orlandia Heights Neighborhood Improvement District
Regular Member At-Large

Council Member Marks made a motion to appoint Danny Tillis, and Council Member Lenzen seconded. The motion passed unanimously.

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

Vice Mayor Erickson said the next Council should think about public participation as it is getting out of hand.

Council Member Marks asked for an update on the two group homes providing services for drug addiction. Mr. Parrott explained that code enforcement action has been initiated.

Council Member Marks asked Mr. Parrott for an update on Larry Allen's reimbursement regarding SB 360.

Council Member Lenzen said he would be leaving Thursday morning for the Florida League of Cities Conference, and he was looking forward to the interesting discussions.

- B. City Manager

Mr. Parrott informed the Council that the City received a \$1.3 million reimbursement from FEMA for the West Side System.

- C. City Attorney

Mr. Ardaman had nothing to report.

XIV. Adjournment

The meeting was adjourned at 8:50 p.m.

**APPROVED
CITY OF DeBARY
CITY COUNCIL**

Bob Garcia, Mayor

ATTEST:

Stacy Tebo, City Clerk