

**City of DeBary**  
**REGULAR CITY COUNCIL MEETING**  
**Wednesday**  
**October 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 7:00 p.m.

**II. Roll Call**

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

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

**III. Committee Reports**

1. Update by Chair Sid Vihlen, Jr. of the Economic Development Advisory Committee.

Chair Vihlen gave a brief synopsis of the recent meeting and noted that the City brochure was finished. He thanked Vice Mayor Erickson for the errors he caught in the final draft. He said that the Committee has been discussing email contact with the business community to facilitate suggestions and communications. He informed the Council that there are currently 1,080 businesses in the City; that there is a West Volusia business connection headed up by a realtor; and that she would be making a presentation at the Committee meeting the following night. He noted they had a presentation by Team Volusia at the last meeting; that Volusia County is supporting Team Volusia; and that they would discuss it at the next meeting.

Vice Mayor Erickson asked if they would provide a recommendation regarding the Committee's position on Team Volusia. Chair Vihlen responded that he would provide a written report to Council.

2. Update by Chair Mike Kolba of the Streetscape Advisory Committee.

Chair Kolba provided an update to the Council on the recent installation work for the bus shelter in front of Walgreens. He stated that the foundation work is completed; that the shelter would be delivered the following week; that it would meet all requirements of FDOT; and that it is handicapped accessible. He said the Committee recommended a second shelter location in front of the library and a third location near Bank of America. He said that Ms. Blissett would be approaching the businesses to ask for sponsorships. He said that he spoke to his dentist in the professional plaza, and she is

interested in sponsoring a bus shelter. He informed the Council that VOTRAN has stimulus funds, and the Committee hopes to obtain grant dollars for future bus shelters.

Council Member Lenzen said he spoke with the City's VGMC representative, Danny Allen, and he has not reported to Council because the VGMC meetings were cancelled the last two months.

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

None.

**V. Approval of Minutes**

1. Regular City Council Meeting held August 4, 2010.
2. City Council Workshop held August 17, 2010.
3. Regular City Council Meeting held August 17, 2010.

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

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

Vice Mayor Erickson made a motion to table item two under New Business. Council Member Marks seconded, and the motion passed unanimously.

**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 items:*

1. Ordinance #12-10 – Second Reading – Amending Chapter 1, Section 1-16(d)(3) of the Land Development Code for the Interest Rate Charged on Liens Associated with Pass Through Development Costs.

Mr. Ardaman read Ordinance #12-10 aloud by title.

Mr. Parrott briefly explained the reasoning for the interest rate change.

Vice Mayor Erickson made a motion to approve Ordinance #12-10 on second and final reading. Council Member Marks seconded, and the motion passed unanimously.

**X. Growth Management and Development Review**

1. Request by FPL for Final Site Plan Approval to Replace Existing Hydrogen Tank.

Ms. Hammock explained the request to the Council and recommended approval. She stated that it meets the requirements of the Land Development Code and is in compliance with the City's Comprehensive Plan.

Vice Mayor Erickson asked if the City had the fire inspector's review. Ms. Hammock responded that she distributed the inspector's written comments, and he did not have a problem with the final site plan.

Council Member Marks pointed out a minor correction to a reference made to the Land Development Code in the staff report.

Vice Mayor Erickson made a motion to approve the request for final site plan approval. Council Member Marks seconded, and the motion passed unanimously.

## **XI. Old Business**

None.

## **XII. New Business**

1. Award of Bid #03-10 for Lake Anna Maria, Lake Maud, Lake Olivia, and Lake Susan Stormwater Outfall System.

Mr. Parrott outlined the bid process for the Council and noted the addendum was issued due to the elimination of two small easements. He stated that All Florida Guardrail Corp.'s bid was found to be non-responsive to the Instructions to Bidders, Article 6, Part 2, Familiarity with Law; that All Florida Guardrail Corp. is a Florida licensed Building Contractor, but according to the Florida Department of Professional Regulation this license is not appropriate for the construction of a stormwater project; that All Florida Guardrail Corp. requested the City consider a licensed underground subcontractor to perform a majority of the work; that Article 16 of the Instructions to Bidders, Part 3, (xii) outlines the City's discretionary power to reject any bid based on the proportional amount of the work that the Bidder intends to perform with its own organization as compared with the portion it intends to subcontract; and that his recommendation is to award the contract for construction of Bid No. 03-10, the Lake Anna Maria, Lake Maud, Lake Olivia, and Lake Susan Stormwater Outfall System to the lowest responsive and responsible bidder, Masci Corporation, for the amount of \$246,899.75.

Mr. Ardaman explained the definition of a responsive and responsible bidder and the basis that staff used to find All Florida Guardrail Corp. non-responsive.

Vice Mayor Erickson made a motion to approve a total budget amount of \$259,244.75 for the City of DeBary, Bid No. 03-10 Lake Anna Maria, Lake Maud, Lake Olivia, and Lake Susan Stormwater Outfall System, which is the Masci Corporation low bid amount of \$246,899.75, plus the contingency reserve of \$12,345.00. Council Member Marks seconded, and the motion passed unanimously.

2. Award of Bid #04-10 for CDBG Improvements at Bill Keller Park.

This item was tabled to November 3<sup>rd</sup>.

3. Release and Termination of Sidewalk Easement Granted to the City of DeBary by DeBary Town Center LLC.

Mr. Parrott stated that Volusia County is applying for federal funds to construct a sidewalk/trail along Dirksen Drive; that to be eligible for funding through FDOT, all easements for the sidewalk/trail must be in the County's name; that Volusia County has requested that the City of DeBary release a sidewalk easement granted by DeBary Town Center LLC in 2007, located along Dirksen Drive; that DeBary Town Center LLC will grant an easement to Volusia County over the same legal description; that the process will meet the eligibility requirements for applying for the funding; and that he recommends approval for the release and termination of the easement.

Rani Merens, City representative to the Volusia County TPO Bicycle and Pedestrian Advisory Committee, encouraged the Council to approve the release. She read aloud a resolution passed the previous week by the Volusia County TPO regarding the enhancement and expansion of the trail to increase accessibility.

Vice Mayor Erickson moved that the City Council release the sidewalk easement granted to the City of DeBary by DeBary Town Center in 2007, and authorize the Mayor to sign the Release and Termination Agreement prepared by the City Attorney. Council Member Marks seconded, and the motion passed unanimously.

**XIII. Council Member/ Staff Reports**

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

Mayor Garcia thanked Mr. Parrott for the October 15<sup>th</sup> weekly update. He said he spoke with Representative Alan Hayes on the CSX issue. He briefly spoke about a deputy who went above and beyond the call of duty.

Vice Mayor Erickson asked when the City Attorney's office receives the agenda packet. Mr. Ardaman answered that it usually arrives in the mail on Monday.

Council Member Marks asked Mr. Parrott to send a letter thanking the fire department for the wonderful open house they held recently.

Council Member Handy-Peters agreed with Council Member Marks and said there was tremendous citizen turnout. She added that the City should be proud of the renovations made to the building,.

Council Member Lenzen said he also attended the open house and he had not realized all the free work the firefighters had been doing. He said he attended the MPO Alliance, which includes all of Central Florida, and they are finally moving with the Wekiva Beltway, which is a \$1.8 billion project. He said he was impressed with the Progress Energy presentation earlier in the day.

B. City Manager

Mr. Parrott had nothing to report.

C. City Attorney

Mr. Ardaman stated he would like to get the Council's advice in the matter of *DeBary MHP, LLC v. City of DeBary* and requested that the Council go into executive session.

**XIV. Business**

Request by City Attorney for Executive Attorney-Client Session to Discuss Pending Litigation Pursuant to Section 286.011(8), Fla. Stat. concerning *DeBary MHP, LLC v. City of DeBary*, Volusia County Circuit Court Case No. 2010 13013 CIDL.

Mayor Garcia announced the following:

**XV. Recess Public Meeting and Open Executive Attorney-Client Session with City Attorney**  
Executive Attorney-Client Session (Closed to Public) to Discuss Pending Litigation concerning *DeBary MHP, LLC v. City of DeBary*, Volusia County Circuit Court Case No. 2010 13013 CIDL.

Estimated Length of Executive Session: 45 minutes.

Names of the Persons Attending: Mayor Bob Garcia, Vice Mayor Norm Erickson, Council Member Lenny Marks, Council Member Jack Lenzen, Council Member Lita Handy-Peters, City Manager Dan Parrott, City Attorney A. Kurt Ardaman, and Court Reporter.

**XVI. Termination of Executive Session and Reopening of Public Meeting**

**XVII. Adjournment**

The meeting was adjourned at 8:58 p.m.

**APPROVED  
CITY OF DeBARY  
CITY COUNCIL**

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**Bob Garcia, Mayor**

**ATTEST:**

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**Stacy Tebo, City Clerk**