

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida, held on
2 Tuesday, April 11, 2006, at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

3
4 **CALL TO ORDER**

5
6 The Meeting was called to order at 7:00 p.m. by Mayor Erwin and roll call was taken.

7
8 **ROLL CALL**

9
10 **PRESENT:** Mayor Albert T. Erwin; Vice Mayor Chuck Abell; Council Members Donald C. Sherrill,
11 Anthony R. Yebba, Jim Mahoney, Joelle R. DeVane, Jeff H. Allebach, City Manager John J.
12 McCue; City Attorney William E. Reischmann; City Clerk Deborah Renner.

13
14 The Invocation was given by Vice Mayor Abell, followed by the Pledge of Allegiance.

15
16 **1. PRESENTATIONS:** Proclamation – Water Conservation Month

17
18 Mayor Erwin read a proclamation into the record declaring the month of April as Water Conservation
19 Month in the City of Orange City and urging all citizens to practice water saving measures.

20
21 Presentation of Grants – Manatee Festival

22
23 Council Member Allebach came forward and recognized “Gator” Laycock and Johanna Knox who are both
24 part of the Manatee Festival committee. He advised that the Manatee Festival event for 2006 was very
25 successful and the Committee was returning \$26,500 in grant money to the community. Council Member
26 Allebach called representatives forward and presented checks as follows: Dorothy Mazzola accepted a
27 check for the V.I.P.S. for \$1,000; Chief Baskoff accepted a check for \$2,000 for the D.A.R.E. program; Lt.
28 Ron Long accepted a check for \$1,000 for the Fire Dept. Volunteers Association; and David Bridgeman,
29 Chamber of Commerce of SW Volusia, accepted a check for \$1,000 for the Partnership Center. Council
30 Member Allebach thanked the City for all of their support during the Manatee Festival. Mayor Erwin
31 thanked the Manatee Festival Committee on behalf of the City.

32
33 Presentation of Donation - Vice Mayor Abell

34
35 Vice Mayor Abell presented a donation of \$915 to the Fire Department from the residents of Orange Tree
36 Village.

37
38 **2. CITIZENS COMMENTS:**

39
40 No one appeared.

41
42 **3. CONSENT AGENDA:** None at this time

43
44 **4. ORDINANCES – FIRST READING:** None at this time

45
46 **5. PUBLIC HEARINGS – ORDINANCES – SECOND & FINAL READING:** None at this
47 time.

1 **6. RESOLUTIONS:**

- 2
- 3 **A. RESOLUTION NO. 351-06:** A Resolution of the City Council of the City of Orange City,
4 Florida, acknowledging and approving the Comprehensive Emergency Management Plan
5 (CEMP) and the ongoing development thereof; and recognizing the City Manager's authority to
6 modify the Comprehensive Emergency Management Plan as needed to develop and implement
7 procedures, training and assessment tolls; repealing all resolutions or parts of resolutions in
8 conflict herewith; and providing for an effective date.

9

10 **Council Member Mahoney moved to approve Resolution No. 351-06,**
11 **seconded by Council Member DeVane.**

12

13 Mr. McCue stated that he and the Mayor, along with several Public Works employees, would be attending a
14 joint exercise sponsored by Volusia County and Progress Energy tomorrow.

15

16 **Motion passed by unanimous 7/0 roll call vote of the Council.**

- 17
- 18 **B. RESOLUTION NO. 352-06:** A Resolution of the City Council of the City of Orange City,
19 Florida, to enter into an Urban and Community Forestry Grant Memorandum of Agreement with
20 the State of Florida, Department of Agriculture and Consumer Services, Division of forestry;
21 repealing all resolutions in conflict herewith and providing for an effective date.

22

23 **Council Member DeVane moved to approve Resolution No. 352-06,**
24 **seconded by Council Member Sherrill.**

25

26 James Moltz, Parks Superintendent, came forward and stated that the subject grant provides for a fifty-fifty
27 matching grant to purchase equipment and educational materials to train City employees on tree trimming and
28 safety issues. Mr. McCue noted that the grant application was forwarded by the Mayor and that it was the first
29 time the City has applied for this particular grant. Mayor Erwin advised that the purpose of the Resolution is to
30 authorize the execution of a memorandum which would make the City eligible to apply for the grant. Mr.
31 McCue said that when the grant is awarded, it will come back before the Council.

32

33 Council Member Yebba noted that the application referenced twenty trees in Dickinson Park and questioned
34 whether there would be room. Mr. Moltz responded that the Master Plan for the park calls for lining the
35 sidewalks with trees, eventually creating a canopy for a "boulevard feel."

36

37 Mr. Moltz clarified that the proposed grant would be used to purchase a chipper and educational materials.
38 Further discussion ensued regarding the landscape plan for Dickinson Park.

39

40 **Motion passed by unanimous 7/0 roll call vote of the Council.**

41

42 **7. DISCUSSION AND ACTION:**

- 43
- 44 **A. City Manager's Evaluation**

45

46 Mayor Erwin noted that all of the evaluations had been turned in to him and he has created a compilation
47 sheet which was distributed to all of the Council.

1 **Vice Mayor Abell moved to grant the City Manager a 5% pay increase**
2 **based upon the ratings that he received on his evaluations, seconded by**
3 **Council Member Sherrill.**
4

5 Council Member Sherrill requested that he be allowed to speak regarding the City Manager's contract after
6 the discussion and action on the current motion.
7

8 **Motion passed by unanimous 7/0 voice vote of the Council.**
9

10 Council Member Sherrill noted that the City Manager had been with the City for "quite some time" and had
11 never requested an amendment to his contract. He referenced Section 10 of the contract pertaining to
12 automobile allowance and noted that it provides that the City Manager be responsible for insurance and
13 repair and maintenance on his personal vehicle.
14

15 **Council Member Sherrill moved to change the last sentence of Section 10**
16 **of Mr. McCue's contract to read, "The City shall provide the employee**
17 **all maintenance and repairs for said automobile or its replacement"**
18 **seconded by Council Member Allebach.**
19

20 In response to a question from Mayor Erwin, Mr. McCue stated that his current car allowance is \$300 per
21 month, noting that it is the same amount that he negotiated six years ago. Mayor Erwin stated that the only
22 action the Council could take tonight would be to agree to renegotiate the contract. Council Member
23 Sherrill suggested that an addendum to the contract rather than renegotiation would be sufficient to make the
24 change. Mr. Reischmann advised that the current contract was approved by resolution, therefore, the proper
25 procedure would be to create a first amendment to the original employment agreement and to formalize that
26 amendment by resolution.
27

28 Mayor Erwin stated that he would not be in favor of the amendment, but noted that he would like more time
29 to address the issue. The Mayor stated, "I feel that he already receives compensation for that and I certainly
30 wouldn't be in favor of making any changes at the present time."
31

32 Vice Mayor Abell noted that other cities around the County are paying their Managers higher car allowances
33 than Mr. McCue is receiving. He said that he would favor either the current motion or an increase in the car
34 allowance.
35

36 Council Member Mahoney noted that a friend of his received \$500 per month plus mileage as a car
37 allowance.
38

39 Council Member Allebach clarified that a vote on the current motion would mean that a resolution to amend
40 the City Manager's vehicle allowance to provide for maintenance would be presented at the next meeting.
41

42 Mr. McCue stated that it costs him \$85 to fill the gas tank on his car and that it was used 100% for city
43 business during the week. He stated, "\$300 isn't even paying my gas right now, needless to say anything
44 about my maintenance or flat tires or wear and tear on my vehicle." He said that he contemplated asking the
45 City to provide a vehicle for him, however, felt that an increase in the allowance would not require the City
46 to put out a major expenditure for another vehicle. He said that his preference would be to have repairs to
47 his vehicle done by the City's mechanic rather than having an increase in his monthly allowance.

1 Mayor Erwin stated that he “did not appreciate this coming up as an unagendaed item” and that it came up
2 after granting the City Manager a 5% increase in addition to his annual cost of living increase. He stated, “I
3 don’t like the situation at all, personally.”
4

5 Council Member Sherrill noted that last year, the City Manager received a 7% increase, but only received
6 5% this year.
7

8 Council Member Yebba said that he did not mind the City Manager raising this issue and engaging in some
9 preliminary discussion because the matter would have to come back to the Council for action at a future
10 meeting.
11

12 Mayor Erwin stated that at some point, it would be more economical for the City to provide a vehicle for the
13 City Manager as opposed to giving allowances. Mr. McCue stated that he concurred with that.
14

15 Council Member DeVane concurred with either increasing the City Manager’s vehicle allowance or having
16 the City provide maintenance for it. She expressed that it would be cheaper to have the City perform the
17 repairs than to buy an additional vehicle.
18

19 Council Member Mahoney said that the City Attorney confirmed that there would be no additional liability
20 to the City to perform the maintenance to the vehicle as opposed to providing a city-owned vehicle for his
21 use. Mr. Reischmann stated that there could potentially be liability for the City if Mr. McCue had his
22 vehicle worked on by the City and then that resulted in damages.
23

24 **Motion passed by 6/1 voice vote of the Council with Mayor Erwin**
25 **voting “no.”**
26

27 **B. Hazard Mitigation Grant Program**

28

29 Mr. McCue stated that this grant had been initiated about a year ago. He identified the project as the
30 Industrial Drive stormwater mitigation plan.
31

32 Paul Johnson, Public Works Director, came forward and said that he is representing the City on the County’s
33 mitigation plan. This grant is funded by FEMA and administered by the State of Florida. Mr. Johnson said
34 that he signed the grant application when originally submitted, not realizing that he needed authorization
35 from the Council to do so. He said that the grant is now at the approval stage and the City will be receiving
36 about \$67,500 toward the project. All that is required now, is for Council to authorize Mr. Johnson to sign
37 the grant application and to enter into an agreement to maintain the lift station for the stormwater.
38

39 Mr. McCue clarified that the grant in question is not part of the FEMA reimbursement for storm damage.
40 He stated that the CEMP just adopted by the City is part of the eligibility requirement for this type of grant.
41 Mr. McCue advised that the proposed stormwater system would pump water from Industrial Drive to the
42 vacant lot across from Public Works. Mr. Johnson said that the alternative hookup would still be to pipe it
43 to the DOT system upon approval from the Water Management District. In response to a question from
44 Vice Mayor Abell, Mr. Johnson stated that this drainage project was part of the planned paving of Thorpe
45 Avenue.
46

47 Mayor Erwin asked how this project fits in with the stormwater study that is currently in process. Mr.

1 McCue said that the project has been presented to them and has met with their approval. He said their
2 preference would be for the drainage to tie into the DOT pipes, however, the City doesn't have the authority
3 anymore as DeBary had already obtained the rights from DOT to use their system. Mayor Erwin noted that
4 one of the pumps currently in use has been operational for eleven years.
5

6 **Vice Mayor Abell moved that the City Council authorize the Public**
7 **Works Director to enter into an agreement with the Federal Emergency**
8 **Management Association (FEMA) by issuing a letter to FEMA granting**
9 **Paul Johnson, Public Works Director signatory authority for the**
10 **application and agreements relating to HMGP project 1539-166,**
11 **seconded by Council Member Yebba and passed by unanimous 7/0 voice**
12 **vote of the Council.**
13

14 **C. Award Bid for Production Wells #8 & #9**
15

16 Mr. McCue stated that two bids were received for Well Numbers 8 and 9. He advised that Mr. Reischmann
17 has been working with the County on the easements. Mr. Johnson and Mr. McCue expressed their
18 confidence in Layne Christensen Co. and in the proposed well sites.
19

20 BEGIN TAPE 1-B
21

22 In response to a question, Mr. Johnson assured the Vice Mayor that the entire package had been reviewed
23 for completeness and responsiveness.
24

25 Mayor Erwin noted that there were some "huge discrepancies" on some items and stated that he had been
26 assured that it was because the Layne Christensen Co. had built the test wells on the same site and it gave
27 them an advantage as to what to expect. He said that after discussing the bid with staff, he feels
28 "comfortable" with it.
29

30 **Council Member Yebba moved to authorize the City Manager to enter**
31 **into an agreement with Layne Christensen Co., Inc., seconded by Vice**
32 **Mayor Abell and passed by 7/0 voice vote of the Council.**
33

34 **D. Award Bid for Town Hall Restoration Project**
35

36 Mr. McCue stated that although the bid they received was higher than anticipated, after reviewing the bid,
37 staff was very impressed with the credentials of the Company that submitted it. Mr. McCue advised that
38 representatives from Western Waterproofing were present to address questions from Council.
39

40 Mr. McCue said that the City could not afford to sign a contract at the entire bid amount, but discussions
41 ensued to see if there were a way that the work could be done over a period of time in a manner in which the
42 City could afford the expenditure. Mr. Johnson said that the architect feels that 100% tuck pointing of the
43 building is the only way that the City can qualify for grant funds from the State. Mr. McCue noted that one
44 of the biggest problems with Town Hall is the penetration of water and that Western Waterproofing has
45 expertise in this area.
46

47 Mr. McCue stated that staff is recommending that the first four segments of the scope of work, which would

1 include from the cupola down including the brick work, be completed now. The windows and other
2 miscellaneous items including the gutters would be done as Phase 2 of the project for which the City would
3 apply for another historical grant.
4

5 Vice Mayor Abell noted that the windows “look like they’re going fall off now” and questioned whether the
6 City could wait several more months to replace them. Mr. McCue responded that one of the windows was
7 repaired some time ago and that could be done again if necessary.
8

9 Mayor Erwin asked whether the City would be in compliance with the current grant award by just
10 completing part of the work at this time. Mr. McCue responded, “Yes, sir, we are.” Mayor Erwin asked
11 what the prospects for obtaining additional grants were when the City has already obtained a grant based on
12 the assumption that the cost estimates submitted were for the total project. Mr. McCue responded that this
13 would be the total grant for this cycle. When the City applies again, it would be for a separate grant. Mayor
14 Erwin noted that the City had not applied for the grant based on a phased project and again questioned
15 whether we would be eligible for additional grant money on a project that had already been awarded
16 funding. Mr. McCue responded, “We are proposing to phase the project in.” Council Member Sherrill
17 stated his understanding that the City could request funding for the same project three times. Mr. McCue
18 concurred. Mayor Erwin reiterated his understanding that the City applied for a grant for the complete
19 project, not a phased-in project, and was granted a certain amount of money. He noted that Lake Helen’s
20 grants were each for a specific phase of their project. He again questioned whether the City could again
21 apply for the same project that theoretically had already been funded. The Mayor expressed his preference
22 to contract for the entire project now, funding it over two fiscal years. He noted that this would eliminate
23 the need to pay for another mobilization cost which is in excess of \$31,000. Mr. McCue responded that if it
24 is the desire of Council to authorize the project for the full bid amount, staff would be “in support of that
25 150%.” The Mayor asked whether the City could apply for another grant if the project is already in process.
26 Mr. McCue said that nothing prevents the City from applying for another grant, however, he could not
27 guarantee that the request would be funded.
28

29 Council Member Sherrill concurred with Mayor Erwin, noting that the work had to be completed in any
30 case.
31

32 Mayor Erwin stated, “Why not go for the whole thing. We’ve been playing around with this Town Hall
33 thing for seven or eight years in reality. And I think it’s time that we just did it and get it done and behind
34 us.” He noted that every year that the project is delayed, the cost increases.
35

36 Council Member Allebach advised that the City could apply for an ECHO grant to help with the cost.
37

38 Vice Mayor Abell agreed and said that he felt the City was in a “favorable position” with Tallahassee to
39 obtain additional grant funds.
40

41 **Vice Mayor Abell moved to authorize the City Manager to enter into an**
42 **agreement with Western Waterproofing Company and authorize him to**
43 **spend up to \$490,081 to move the Town Hall restoration project**
44 **forward, seconded by Council Member Sherrill.**
45

46 In response to a question from Council Member Yebba, one of the representatives from Western
47 Waterproofing explained that tuck pointing is a procedure used on masonry buildings in which the existing

1 grout is removed and replaced with new masonry mortar. Mr. McCue noted that the stated has very strict
2 requirements in regard to procedures such as tuck pointing. Council Member Yebba noted that 500 bricks
3 would be replaced and suggested that they be salvaged and put to some type of use or distributed as
4 souvenirs. Council Member Yebba asked whether it was ever determined that the original roof was slate
5 and that the rafters could hold the weight of that material. He said that in a photo in the Orange City history
6 book which was dated 1940 and the roof appeared to be shingles. Mr. Johnson said that the information
7 was taken from the original blueprint for the building. Mr. Johnson suggested that although the original
8 plans called for slate, perhaps it was not used. Council Member Yebba asked for details about the
9 replacement of the windows. Mr. McCue advised that when the building was originally built, it did not have
10 a heating or air conditioning system, therefore, the windows were designed to provide for air flow. The
11 architect recommended that the windows be replaced with something air-tight, however, this created some
12 issues with the state historic preservation grant. Mr. McCue said that with the proposed windows, it would
13 not be possible to tell by looking at them that they are not the original type windows. Mr. Johnsons advised
14 that the new windows could not be opened. Mr. McCue said that there is a mold problem within the
15 building in its present state, noting that you could see it growing on the walls in the stairwell. Council
16 Member Yebba noted that the building was originally built for \$20,000 in 1928.

17
18 Gary Blair, 240 S. Holly Avenue, asked whether the new windows would be made of wood. One of the
19 representative from Western Waterproofing responded that they would be vinyl windows made by Pella as
20 recommended by the project architect. Mr. Blair voiced his opposition to the use of vinyl windows.

21
22 Council Member Mahoney stated that in light of the mold issues, it was important to put health and safety
23 ahead of historic preservation.

24
25 **Motion passed by unanimous 7/0 voice vote of the Council.**

26
27 **8. REPORTS:**

28
29 **A. City Manager**

30
31 Mr. McCue reported that the City is still assisting the VIA with their search for new space. He said that they
32 are also continuing to work with the Library Association toward maintaining a presence there. Mr. McCue
33 stated, "They're moving ahead and we're still in a support role to them, but not in an involved role." Council
34 Member Yebba noted that it is ironic that the VIA formed the Library Association and now the Association is
35 trying to move them out. He stated, "As a lifetime member of the Association, I'm just terribly disappointed
36 about this whole thing."

37
38 Mr. McCue stated that the City is participating in the "Walk for Life" for cancer this year and that there will be
39 upcoming fundraising activities.

40
41 Mr. McCue announced that the Police Department received a grant for \$20,000 to purchase automatic
42 defibrillators for the patrol vehicles.

43
44 Mr. McCue stated that he met the new County Manager and would be having lunch with him this week to show
45 him around the City.

46
47 Mr. McCue said that he was not pleased with the DEP's efforts to date regarding the GEL closure. He

1 referenced email correspondence with Kelly Eger including one distributed today regarding the responses she
2 has been receiving from DEP and stated that the City is not satisfied. Mr. McCue stated, "I don't think that that
3 means that the landfill is going to stay open, but I think that they're going to find a way to not close it." He
4 stated his belief that this could be accomplished by GEL beginning to recycle C&D debris. Mr. McCue noted
5 that DEP has not done anything about the fact that the landfill has expanded beyond the footprint. In addition,
6 GEL was instructed to do sampling at some of their old wells and that the samples had been lost. Mr. McCue
7 stated, "Short of getting into a lot of detail here and now, I don't see any change out of the DEP and the closure
8 issue in their words is really open for debate dependent on the application they receive. What I believe they're
9 going to do is keep it open and mine it as a recycling operation. And DEP has told me that on the telephone
10 and has told Kelly they will accept that as a closure. That is unacceptable to us." Mr. McCue said that he and
11 the City Attorney have been looking for an alternative strategy on how to address the issues of importance to
12 the City.

13
14 BEGIN TAPE 2-A

15
16 Mr. Reischmann advised that until recently, they thought that Kelly Eger, the City's consultant engineer on this
17 matter, had been having productive discussions with the DEP regarding the specifics of closure of the landfill.
18 Mr. Reischmann recounted some of the closure issues that the City has raised with the DEP, noting that these
19 issues have been discussed before. He said that Mr. McCue was referencing a recent communication with the
20 DEP that staff has found "extremely disappointing and unsatisfactory" with regard to responses to concerns
21 raised by Ms. Eger. Mr. Reischmann said that one of the limited options remaining available to the City is to
22 focus on land use issues. He said that he and Mr. McCue have been working with attorney Allen Watts
23 regarding the land use matter. He said that Mr. Watts' firm, Cobb and Cole, have extensive experience with
24 land use issues related to landfills. Mr. Reischmann stated his belief that they would be the best firm to provide
25 the expertise and background to assist the city with evaluating the City code to see if it can be changed and
26 updated with regard to grandfathering non-permitted uses, and to look into the opportunity to regulate and/or
27 prohibit the expansion of a non-conforming use. Mr. Reischmann concluded by stating, "We wanted to bring
28 that to your attention this evening so that you would know what we're doing to try to address what we perceive
29 is an effort by the GEL facility to continue to operate outside of the limitations imposed by the Department of
30 Environmental Regulation."

31
32 Mr. McCue expressed his concern that if GEL begins "mining" the mountain, it will reduce the size and if it's
33 not capped off, then it can be re-permitted. He reiterated that GEL is recycling the C&D debris that was
34 traditionally going on the mountain. Mr. Reischmann noted that state regulations deal primarily with landfills,
35 not recycling facilities. He noted that it appears that the original permit for recycling was for household
36 materials, not for construction debris.

37
38 Vice Mayor Abell asked when the executive session would be held. Mr. McCue responded, "We're bringing
39 this up to you tonight with the hopes that we get the nod that this is the path you want us to go down." Mr.
40 Reischmann clarified that an executive session is only for the purpose of discussing pending litigation and the
41 costs and stated, "We're not at that stage yet." Vice Mayor Abell stated that he was upset at the thought of
42 another ten years of litigation on this matter. Mr. Reischmann explained that the City is trying to be proactive
43 and were concerned that there appeared to be "some finality" and he and the City Manager feel that the best
44 course of action at this time is to pursue the land use issue. Mr. McCue clarified that this would not involve the
45 DEP, it is a local issue. He said that what has been tonight is a "fall back strategy."

46
47 Mr. Reischmann reiterated the importance of groundwater monitoring to ensure there is no contamination, or if

1 contamination is found, that the impact is mitigated. He said that Ms. Eger has been tasked with monitoring the
2 closure and to ensure that if an application is filed for continued operation, she will know about it immediately
3 and will make the City aware.
4

5 Mr. McCue said that GEL was to have provided groundwater test samples a year ago, however, DEP never
6 followed up until prompted by Ms. Eger. Now the City is being told that the samples were lost. Mayor Erwin
7 observed that samples were drawn over a month ago. Mr. McCue reiterated that they were actually due over a
8 year ago.
9

10
11 **B. Mayor/City Council**
12

13
14 **C. City Clerk**
15

16 The City Clerk
17

18 **D. City Attorney**
19

20 The City Attorney had no report.
21

22 **9. APPROVAL OF MINUTES:**
23

24 **Council Member Sherrill moved to approve the minutes of the March 14, 2006**
25 **Regular Meeting, seconded by Vice Mayor Abell, and passed by unanimous 6/0**
26 **voice vote of the Council.**
27

28 **10. COUNCIL COMMENTS**
29

30
31 **11. ADJOURNMENT**
32

33 There being no further business, Mayor Erwin adjourned the meeting at 8:15 p.m.
34
35
36
37

38 **RESPECTFULLY SUBMITTED:**
39
40

41 Deborah J. Renner, CMC
42 City Clerk

APPROVED ON
