

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida,
2 held on Tuesday, April 8, 2008 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

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4 **CALL TO ORDER**

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

7
8 **ROLL CALL**

9
10 **PRESENT:** Mayor Harley Strickland; Vice Mayor Jeff Allebach; Council Members; Tom Laputka, Jim
11 Mahoney, Don Sherrill, Donald Sandford; City Attorney William Reischmann; City
12 Manager John McCue, City Clerk Deborah Renner

13
14 **ABSENT:** Council Member Abraham

15
16 The Invocation was given by Council Member Sherrill, followed by the Pledge of Allegiance.

17
18 **1. PRESENTATIONS:** None at this time.

19
20 **2. CITIZENS COMMENTS:**

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22 Sandy Jones, 403 W. New York Avenue, came forward and advised Council that she received an
23 usually high water bill. She distributed copies of her water bills to the Council (a copy of which is
24 attached and becomes a permanent part of these minutes). Ms. Jones said that in March she was billed
25 for 34,000 gallons of water. She said she lives alone and does not have a pool or irrigation system and
26 could not have used that much water. In February she was billed for 18,000 gallons and 2,000 gallons in
27 January. Ms. Jones advised that the meter was tested twice and the results showed that the meter was
28 working properly. She said it was suggested that there was a leak. Ms. Jones emphatically denied
29 having a leak and said that she spoke with a number of staff people to no avail. She advised Council
30 that she had entered a payment plan with the Utility. She stated, "I am not against paying my fair share
31 of my bill, but...there is no possible way I could have used that much water."

32
33 Mr. McCue acknowledged Ms. Jones complaint noting that he and Ms. Davis had discussed the matter
34 in detail. He said a fourteen month historical profile of Ms. Jones' water use was reviewed. The Utility
35 tested the meter twice and that it appears to be working properly. He stated, "It is very clear that
36 something happened on the other side of the meter." He suggested that the water use could have come
37 from a number of sources including a leaky toilet or a soaker hose left on all night. He said that staff
38 does not want to be put in a position of making a judgment on what happened with no way to validate it.
39 Mr. McCue said that he understands the situation, but there is nothing that can be done. He said that
40 Ms. Jones has made good faith efforts to resolve the situation and pay her bill.

41
42 Council Member Laputka said that he had a similar situation and discovered that he had an underground
43 leak. Ms. Jones said that she turned off everything and checked for leaks. She said that she understands
44 the water company's position, that if water goes through the meter, it must be true but maintained that in
45 this case, "it's just not true."

46
47 Mr. McCue said that he also had a similar situation with the County. He said that he challenged the
48 County and that they had the same position as he does now and eventually he had to enter into a

1 payment plan to resolve the bill. Mr. McCue advised Council that the proposed Utility policy provides
2 options for addressing these kinds of issues however that is not the law today. He said the code is very
3 clear and unless it is an employee error or equipment malfunction there is nothing that the Utility can
4 do. Mr. McCue said that staff will meet with Ms. Jones' to discuss her options. He stated, "I can't
5 guarantee you that it is going to come out 100% to your satisfaction but we will give it another look."
6 Mr. McCue said that he will email Council when it is resolved.

7
8 Mayor Strickland reiterated that staff would meet with Ms. Jones. He thanked her for bringing the issue
9 to the Council.

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11 **3. CONSENT AGENDA:** None at this time.

12
13 **4. ORDINANCES – FIRST READING:**

- 14
15 **A. ORDINANCE NO. 348:** An ordinance of the City of Orange City, Florida, annexing the
16 Orange Commerce Park property into the corporate limits of the City of Orange City,
17 Florida; said property being generally located on the east side of North Volusia Avenue
18 approximately 300 feet north of Wisconsin Avenue, containing a approximately 11.05
19 acres; in accordance with the voluntary annexation provision of Florida Statute 171.044;
20 redefining the boundaries of the City of Orange City by amending the appropriate sections
21 of the code of ordinances; containing a repealer provision, a severability clause and
22 providing for an effective date.

23
24 **Council Member Sherrill moved to adopt Ordinance No. 348, seconded**
25 **by Council Member Sandford.**

26
27 Chester Murray, Development Services Director, advised that this item was pulled from the last agenda
28 due to objections from the County. He said staff met with the County today and that is was an amiable
29 meeting. The County is not against this annexation but county staff wanted to discuss the issues with
30 the County Manager and Council. Mr. Murray said that staff informed the County that this annexation
31 would go before the City Council for first reading and that the County would have an opportunity to
32 respond prior to second reading. Mr. Murray noted that staff does not expect any problems with this
33 annexation and is recommending approval on the first reading.

34
35 In response to a question from Mayor Strickland, Mr. Murray said the property is commercially zoned
36 under the county and that there would be no land use change. He said that a 3-story brick office
37 building is planned for the site. Mr. McCue said that this property is commercially zoned under the
38 county and would have to go through Orange City's development review process. He said that county
39 properties that are contiguous may consider annexing into the city to avoid a dual development review
40 process. Referring to a PowerPoint presentation (a copy of which is attached and becomes a part of
41 these minutes), Mr. Murray noted the location of the property and advised that it does not create an
42 enclave. He said that this is the first of several annexations and that the city limits will extend north
43 very rapidly once this annexation is final.

44
45 **Motion passed by unanimous 6/0 roll call vote of the Council.**

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47 **5. PUBLIC HEARINGS/ORDINANCES – SECOND & FINAL READING:**

48

- 1 **A. ORDINANCE NO. 347:** An ordinance of the City Council of the City of Orange City,
2 Florida, providing for a non-exclusive franchise to Orlando Waste Paper Co., Inc., for the
3 collection and disposal of commercial trash, garbage, recyclable materials and other refuse
4 within the city limits; providing for definitions, terms, condition, rates, compliance with
5 laws, arbitration, standards of performance, collection, regulation operations, hours, routes,
6 penalties, accounting, complaint resolutions; containing a repealer provision; a severability
7 clause and providing for an effective date.

8
9 **Council Member Sandford moved to adopt Ordinance No. 347, seconded**
10 **by Council Member Laputka.**

11
12 Mayor Strickland opened the public hearing by asking if anyone wished to speak in favor of or in
13 opposition to the proposed ordinance. No one appeared. The Mayor closed the public hearing.

14
15 Mr. McCue noted that nothing has changed since first reading. Council Member Mahoney questioned
16 Section 14 a. Compensation and Payment on page 4. He asked if there was a conflict with the language
17 in the body of the ordinance and Section 14 of the contract regarding the assessment of the franchise fee.
18 Ms. Davis said that currently Orlando Waste is doing recycling and is exempt under state law from
19 paying the franchise fee. Mr. McCue said there is no conflict that state law takes precedence and that
20 the city could not charge a franchise fee for recycling. Mr. Reischmann explained that if there is a
21 conflict between the body of the ordinance and a paragraph heading, the body of the paragraph would
22 always take precedence. He said it is a scrivener's error and could be corrected without jeopardizing the
23 second reading. Council Member Mahoney asked why a franchise fee would not be assessed. Ms.
24 Davis reiterated that because Orlando Waste is only doing recycling in the city they are exempt from
25 paying franchise fees.

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27 **Motion passed by unanimous 6/0 roll call vote of the Council.**

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29 **6. RESOLUTIONS:**

- 30
31 **A. RESOLUTION NO. 476-08:** A resolution of the City Council of the City of Orange City,
32 Florida, authorizing the City Manager to execute a Continuing Consultant Services
33 Agreement with a pool of engineering firms to provide professional engineering services to
34 the City of Orange City; repealing all resolutions or parts of resolutions in conflict
35 herewith; and providing for an effective date.

36
37 **Council Member Laputka moved to approve Resolution No. 476-08,**
38 **seconded by Council Member Mahoney.**

39
40 Paul Johnson, Public Works Director, came forward. Mr. McCue explained that this resolution will
41 create a list of consulting engineers to bid on the City's projects. He said that engineering projects
42 would not be advertised for bidding; instead the firms on the list would be solicited to submit a bid
43 package.

44
45 Council Member Sandford clarified that the city would only solicit bids from the current pool listing.
46 Mr. McCue responded in the affirmative. Mr. Johnson noted that the City already has an existing pool.
47 He said this list would replace the current pool as the contracts come to term.

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49 **Motion passed by unanimous 6/0 roll call vote of the Council.**

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B. RESOLUTION NO. 477-08: A resolution of the City Council of the City of Orange City, Florida, appointing Robert Storke to Seat #06 on the Orange City Planning Commission; repealing all resolutions in Conflict herewith and providing for an effective date.

Council Member Mahoney moved to approve Resolution No. 477-08, seconded by Council Member Laputka.

Council Member Mahoney announced that Hector Gonzalez resigned from the Planning Commission. He said that he asked Robert Storke if he was willing to serve and he agreed. Council Member Mahoney said that he received numerous calls from people expressing a willingness to serve and stated, "That is a very different situation than historically what has taken place." Council Member Mahoney said that even though he has already invited 5 citizens to participate in the goal setting workshop, he would like to invite the people who have expressed a desire to serve on city boards to participate. He said there are openings for the workshop and he does not want to see people turned away.

Mayor Strickland remarked that he has asked people to attend as alternates. He said that it sounds like a good idea and there is no need to formalize it.

Council Member Mahoney said that there were some concerns that Mr. Storke's participation in both the Charter Review Committee and the Planning Commission would violate the Charter. He said that he asked for a legal opinion and was advised that it would be a conflict. Mr. Reischmann clarified that Ms. Renner contacted him and asked him to look at the Charter to determine if Mr. Storke's appointment would be a violation. He said that at first glance it appeared that the language in the Charter would prevent someone from serving in two offices. He noted that that language was taken from the Florida State Constitution and that there have been a series of opinions by the Attorney General that state that a member of an ad hoc committee is not an officer and Mr. Storke would not be a dual office holder. Council Member Mahoney said that Mr. Storke had already resigned from the Charter Review committee and because that committee is ongoing at this time, he chose an appointee that has a working knowledge of the City Charter. He advised Council that his replacement to the Charter Review Committee is Gary Blair.

Motion passed by unanimous 6/0 roll call vote of the Council.

7. DISCUSSION AND ACTION:

A. CDBG 2008 Submittal

Mr. McCue explained the Community Development Block Grant (CDBG) process. He said that it is a federal program "passed through" the state down to the county level and the city has no control over how much is received. He said the City's proportional share is based on the 1990 census and that these funds are utilized for community development in the low to moderate income communities of the city. Mr. Johnson displayed maps noting that the CDBG eligible area has decreased in size.

In response to a question from Council Member Mahoney, Mr. McCue noted that the formula used to determine the city's share is complicated and that the county determines the amount of the grant based on the census. Mr. McCue pointed out that the funding decreased from \$68,000 to \$57,000. He said that if the County administers the project, the grant amount would be reduced by 30% for overhead. He commented that the money goes further when the City does its own work. Mr. McCue advised that this

1 year's allotment would be used toward the Carpenter Avenue sewer project. He said the project design
2 is 60% complete now.

3
4 **Vice Mayor Allebach moved to approve the 2008-2009 annual plan and five**
5 **year CDBG budget projections as presented by the City Manager,**
6 **seconded by Council Member Sherrill.**
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8 Council Member Sandford questioned why the City needs sewer lines. Mr. McCue explained that it is
9 necessary to comply with State requirements. In addition, it is required for the commercial
10 redevelopment of 17-92. He recalled that some time ago, Walgreens wanted to build a store on 17-92,
11 but could not because of the storm water and septic requirements. Mr. McCue said that it is critical for
12 the future redevelopment of the 17-92 corridor.

13
14 In response to a question from Council Member Laputka, Mr. McCue said that the sewer line would run
15 north and south on Carpenter Avenue up to New York Avenue and there would be feeders from 17-92 to
16 Carpenter Avenue.

17
18 Council Member Sandford confirmed this project is for commercial redevelopment and not to put sewer
19 systems through out the city. Mr. McCue responded in the affirmative.

20
21 Vice Mayor Allebach commented that this project is an inexpensive way to accomplish the task now.
22 He predicted that some time in the future the State will mandate that anyone within a 20 mile radius of
23 Blue Springs Park must have a sewer system.

24
25 **Motion passed with a 6/0 voice vote.**
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27 **8. REPORTS:**

28
29 **A. City Manager**
30

31 Mr. McCue reminded Council of the Goal Setting Workshop for April 9, 2008. He explained that the
32 Council's role is to interact with the citizens and to take notes. Council members will rotate the tables
33 and have an opportunity to speak to all participants. He said that individual digital recorders will be at
34 each table for the purpose of note taking. He said that information from the workshop will be presented
35 at the Council's final session on strategic planning. In response to a question from Council Member
36 Mahoney, Mr. McCue noted that previous discussions about the strategic plan will be available at the
37 workshop.

38
39 Mr. McCue asked Angel Smith, Community Relations Coordinator, and Roselyn Brown, Administrative
40 Service Coordinator, to come forward. He said that a delegation of staff (Ms. Smith and Ms. Brown)
41 and city officials (Vice Mayor Allebach and Council Member Laputka) went to Tallahassee to present
42 Orange City's 2008 Legislative Agenda. Mr. McCue thanked the delegation "for a job well done." He
43 advised Council that Ms. Smith has prepared and distributed a re-cap of the visit. Ms. Smith detailed
44 the City's legislative agenda. She said that the delegation focused on three major issues: (1) landfills
45 adhering to local zoning laws; (2) Closet Unit Response (CUR) and non-issuance of the City's
46 Certificate of Public Convenience and Necessity (COPCN); and (3) video gaming establishments. She
47 said that the visit was successful and that the delegation gathered a lot of information. Ms. Smith said
48 that discussion of the city's COPCN was the most successful. She said that the delegation was advised
49 to find a local representative that would be willing to sponsor this issue on a bill and to help guide the

1 city in its endeavors. Ms. Smith reported that she contacted State Representative Pat Patterson who
2 informed her that he is researching the issue to determine if he could provide assistance. Ms. Smith said
3 that she hopes to have an answer shortly.
4

5 Council Member Laputka commented the COPCN is the City's authority to provide advanced life
6 support services (ALS). He said that currently the city provides basic life support and that if more
7 advanced treatment is need, the only thing that the medics can do is "hold your hand." He expressed
8 concern that the citizens of Orange City are at a greater risk because the County refused to approve the
9 city's COPCN. He stated, "This is a serious matter."
10

11 Mr. Reischmann provided a brief history of the City's COPCN issues. He said that under the State
12 statutes, Counties are the sole issuer of a COPCN for all the municipalities in its jurisdiction. He
13 explained that the County refused to sign the city's COPCN because the city would not enter into a first
14 unit response interlocal agreement with the County. Council Member Laputka noted that these are two
15 separate issues. Mr. Reischmann agreed. He said that the County has tied a public safety health issue to
16 a financial issue.
17

18 Council Member Laputka said that the delegation found a representative that mediates these kinds of
19 issues and was advised to find a "special needs bill" and tack onto it. There was a lengthy discussion
20 about the city's options. Mr. McCue detailed staff's previous efforts to have a local legislative leader
21 assist. He said that no one wanted to get involved with a battle between a city and a county. Mr.
22 McCue said that tacking onto a bill is a simple process if you can find someone who is willing to
23 sponsor that bill. He expressed concerns that no local legislative leader would get involved.
24

25 Vice Mayor Allebach commented that it would be an amendment for local need and that the idea is to
26 find a bill that is relative to county/city contracts or fire services that is running through the legislative
27 session. He felt that the delegation's success was in finding someone who advised the delegation of the
28 best way to accomplish this task. Vice Mayor Allebach said that Mr. Robainia is the Chairman for the
29 Committee on Local and Urban Affairs and that that committee is the referee between cities and
30 counties. He explained that is why it was important to speak to Mr. Robainia. He stated, "...We got
31 somewhere and hopefully we can get a little further." Mr. McCue said simultaneously staff will attempt
32 to restart the negotiation process with the County. He felt that with some of the funding constraints that
33 the County is dealing with, they may be more agreeable.
34

35 Council Member Mahoney questioned whether the bill would apply statewide. Vice Mayor Allebach
36 said that it would not. He stated that it would be a special bill designed for mitigating local special need
37 conflicts.
38

39 Herb Hoffman, Fire Chief, came forward. He reported that he had conversations with the County Fire
40 Chief about the city's service area map and that a draft map has been presented to the County for their
41 review. Chief Hoffman noted that the county has notified other municipalities about possible reductions
42 in fire services due to tax reform.
43

44 In response to a question from Council Member Laputka, Mr. McCue said that the County has told the
45 City that they will not approve our COPCN unless the city enters into a Closet Unit Response (CUR)
46 agreement with them. Council Member Laputka questioned if the City could request a temporary
47 issuance. Mr. McCue responded that the County will not do it. Mr. Reischmann explained that in 2006
48 the County added a new requirement to the COPCN approval process. He reiterated that every city must
49 sign a CUR agreement before their COPCN is issued. Mr. McCue noted that is why the city had

1 considered a law suit. A very lengthy discussion ensued. Mr. McCue summarized by stating staff is
2 approaching this issue in two ways, the legislative track, and negotiations with the County. He
3 remarked hopefully both ends will meet in the middle.

4
5 Vice Mayor Allebach congratulated Ms. Smith and Ms. Brown for their coordination of the legislative
6 team’s program.

7
8 Vice Mayor Allebach reported on video gaming. He suggested that there is much turmoil on this issue
9 because the Governor appears to be in favor of these types of businesses in the State. He told Mr.
10 Reischmann that he spoke with Sandy Adams who advised them that the city attorney could write an
11 ordinance and keep these businesses out of the city. Mr. Reischmann noted that the problem is that the
12 State regulates gambling. The issue is not about local legislation, it is about a state agency or the
13 attorney general applying the existing gambling laws to include video gambling. He said that at present
14 Code Enforcement is enforcing the City’s Code of Ordinances and that the video gaming establishment
15 in Orange City will have to appear before the hearing officer.

16
17 Vice Mayor Allebach stated, “We have done things folks, we’re not throwing up our hands and quitting,
18 but we are fighting as a small city...” Mr. McCue agreed noting that everyone is watching the
19 Escambia County lawsuit. He said if it is successful it would set a legal precedent. Until the State
20 makes a determination that these are illegal gaming operations, our communities are stuck with them.
21 Mr. McCue reaffirmed that the City is doing everything possible. He stated, “Code Enforcement may
22 not be successful, but we are going to put them through the drill.” Mr. Reischmann said there are two
23 different routes of enforcement at the city’s disposal; civil which is through the Code of Ordinances and
24 criminal. He said the criminal avenue would not be effective at this time because the State would not
25 prosecute these types of arrests.

26
27 Vice Mayor Allebach and Council Member Laputka thanked Ms. Smith and Ms. Brown for their efforts.
28 In response to question from Mr. Reischmann, Vice Mayor Allebach said that the issue of landfills died
29 before it made it to any committee.

30
31 **B. Mayor/City Council**

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33 No further report.

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35 **C. City Clerk**

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37 No further report.

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39 **D. City Attorney**

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41 Mr. Reischmann advised Council Member Sherrill that once again there has been talk of “raiding” the
42 Sadowski Trust Fund. He said it is a moving target and that there had been an effort made recently to
43 take a substantial portion of that fund and apply it to the general revenue shortfalls for the State.

- 44
45 **9. APPROVAL OF MINUTES:** March 20, 2008 Utility Code Revisions
46 March 25, 2008 Regular Council Meeting
47 March 25, 2008 Historic Preservation Workshop
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Vice Mayor Allebach moved to approve the Minutes of the March 20, Utility Code Revisions, seconded by Council Member Laputka and passed by a unanimous 6/0 voice vote of the Council.

Vice Mayor Allebach moved to approve the Minutes of the March 25, 2008 Regular Council meeting, seconded by Council Member Laputka and passed by a unanimous 6/0 voice vote of the Council.

Vice Mayor Allebach moved to approve the Minutes of the March 25, 2008 Historical Preservation Workshop, seconded by Council Member Laputka and passed by a unanimous 6/0 voice vote of the Council.

10. COUNCIL COMMENTS:

Council Member Mahoney thanked the residents who contacted him about their willingness to serve the City. He reiterated that had not always been the case and stated, "Do not be discouraged." Council Member Mahoney invited them to attend the goal setting workshop tomorrow.

Council Member Laputka said that he was delighted to see all the names of people who would be attending tomorrow's Goal Setting Workshop.

Council Member Sandford said that he was not able to attend the Legislative Session and thanked his fellow Council Members for attending.

Vice Mayor Allebach told Council Member Mahoney said that there are two spots available for tomorrow. He encouraged people to come to the goal setting workshop tomorrow.

Mayor Strickland noted that there are more flyers for tomorrow's goal setting workshop in the back. He said that everyone invited should have received an invitation letter and a reminder call. He asked Council to call and remind the participants they invited. Mayor Strickland commented that it was really important to acknowledge the council members who took time away from their work to go up to Tallahassee. He remarked I am impressed with how much they accomplished in such a short period of time and stated, "I just want to personally thank you."

11. ADJOURNMENT

There being no further business, meeting adjourned at 8:34 p.m.

RESPECTFULLY SUBMITTED:

APPROVED ON:

Gloria Williams
Deputy City Clerk
