

1 **MINUTES OF THE SPECIAL MEETING** of the City Council of the City of Orange City, Florida,  
2 held on Monday, June 23, 2008 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

3  
4 **CALL TO ORDER** The Meeting was called to order at 7:00 p.m. by Mayor Strickland and roll call was  
5 taken.

6  
7 **ROLL CALL**

8  
9 **PRESENT:** Mayor Harley Strickland; Vice Mayor Jeff Allebach; Council Members; Tom Laputka,  
10 Tom Abraham, Jim Mahoney, Donald Sandford (Late: arrived at 7:10 p.m.), Don Sherrill;  
11 City Attorney William Reischmann; City Clerk Deborah Renner

12  
13 **ABSENT:** City Manager John McCue

14  
15 Mayor Strickland expressed concern regarding the absence of the City Manager. He asked the City  
16 Attorney if there were any requirements in the charter regarding the City Manager's attendance at  
17 council meetings. The Mayor noted that Mr. McCue will not be at the regular council meeting  
18 tomorrow night either. Mr. Reischmann responded that Section 3.01 of the charter and Chapter 2 of the  
19 code provide that the City Manager will attend all City Council meetings. He said that there is also a  
20 similar provision in the Manager's contract. Mr. Reischmann recalled that Mr. McCue had informed the  
21 Council last week that he would not be present at tonight's meeting. He said that there is no  
22 requirement that the Manager be present for the Council to conduct business. Mayor Strickland asked if  
23 it was a charter violation for the Manager not to be present at the meeting. Mr. Reischmann stated that  
24 "he wouldn't classify it as a charter violation." He said that Chester Murray, Development Services  
25 Director, was appointed Acting City Manager in Mr. McCue's absence. Mr. Reischmann advised that  
26 the City Manager's absence was a matter between him and the Council. He noted that the Manager does  
27 have vacation time and that he could not construe his absence from a council meeting as a violation of  
28 the charter. Mayor Strickland asked Mr. Murray to come forward and assume the City Manager's place  
29 at the dais.

30  
31 **1. DISCUSS LISTS OF ITEMS TO BE REMOVED FROM CONSIDERATION**

32  
33 The City Clerk explained the handout with a compilation of comments from Council regarding which  
34 items recommended by the Charter Review Committee (CRC) they would like to see left as written in  
35 the current charter. Council Member Mahoney noted that not everyone turned in their list of items.  
36 Council Member Laputka suggested discussing each item.

37  
38 **2. FINISH DISCUSSION OF SECTION 2.06 (c)**

39  
40 Council Member Laputka said that either the list needs to be complete, or it should be eliminated. As an  
41 alternate, he suggested the wording, "Posting shall be done in the most efficient manner." Vice Mayor  
42 Allebach suggested that this language could leave the City open for a law suit over interpretation of that  
43 language.

44  
45 Mr. Murray suggested the language "...all city-owned office buildings..." noting that the City owns  
46 buildings that are not occupied such as the well houses. He suggested that internet posting requirements  
47 could be included in a policy. Vice Mayor Allebach adding the clarification, "...all city buildings  
48 visited by the public..." Mr. Murray questioned whether this requirement would apply to locations such

1 as the restrooms and concession stand at Valentine Park, since they are city buildings which are visited  
2 by the public.

3  
4 Council Member Sherrill stated his belief that the current language in the charter is “fine.” He said that  
5 the additional changes could be accomplished by resolution and suggested that including unnecessary  
6 issues would clutter and confuse the ballot. He emphasized that notices are currently posted on the  
7 website without a charter requirement.

8  
9 Council Member Mahoney said that there are issues in the charter that he would like to see changed  
10 such as the recommended new budget requirements. He stated, “There are certain things in here to the  
11 extent that they increase public support or provide for better representation, I’m all for that, and actually  
12 promoting that as an amendment on the ballot to the citizens.” Council Member Mahoney maintained  
13 that procedural issues such as posting notices should be addressed in the *Rules & Procedures*. Mr.  
14 Reischmann advised that there are statutory requirements for noticing, as well as the requirement to post  
15 in City Hall and the Orange City Post Office. He said that the City could always do more than these  
16 minimum requirements.

17  
18 Council Member Abraham concurred with Council Members Mahoney and Sherrill that this issue  
19 should not be on the ballot. He stated, “It can be decided by the Council and then we can stress the  
20 areas which we really want to send to the people making the list short and effective.”

21  
22 Council Member Sandford said that he could see the merit in both sides of the issue. He said that if it  
23 can be handled through the rules and procedures, he was “okay with that.” He said that when he ran he  
24 promised to increase citizen participation, and one way of doing that is by providing information. He  
25 said that he would be in favor of anything that would improve the City’s ability to inform the citizens.

26  
27 Council Member Sherrill suggested that the issues related to informing the public should be tracked and  
28 then brought back as a resolution at the end of the Charter review.

29  
30 Paul Rasch came forward and noted that all of the issues related to this matter are listed on Mr.  
31 Strickland’s outline.

32  
33 **Council Member Laputka moved to leave Section 2.06 as it reads in**  
34 **the current charter, seconded by Council Member Sherrill.**

35  
36 Council Member Mahoney reiterated that this item would be implemented, but not in the charter.

37  
38 Vice Mayor Allebach noted that the current charter does not delineate Sections (a), (b), (c) and (d). He  
39 clarified that the motion currently under consideration is to leave Section 2.06 exactly as it is written in  
40 the current charter. Council Member Mahoney noted that would reflect what has already been done.  
41 Mr. Reischmann advised that this change would eliminate subsections (a) through (d). He stated that a  
42 favorable vote for the motion would mean that 2.06 would remain as currently written without any of  
43 the recommendations made by the CRC.

44  
45 **Motion passed by unanimous 7/0 roll call vote.**

46  
47 **3. ADDITIONAL ITEMS FOR DISCUSSION**  
48

1 Mr. Reischmann said that this discussion will include items not considered by the CRC, but which  
2 Council would like to have discussion on. Mr. Abraham noted that term limits was discussed by the  
3 Committee. Council Member Allebach agreed that after discussion, the CRC decided not to include it.  
4 He said that he had “no interest” in adding term limits to the charter.

5  
6 Council Member Laputka disagreed and said he felt it should be considered because it is pertinent to the  
7 issue of districts and should, at a minimum, be discussed at that time.

8  
9 Mayor Strickland suggested that he had discussed this issue during his IEMO training. He said that term  
10 limits could also be applied to Council-appointed boards. The Mayor suggested that if the City  
11 implements districts, it may not necessarily be helpful to have term limits for a representative who is  
12 serving their district well. In conclusion, he said that “term limits at this time just doesn’t really work.”

13  
14 Council Member Abraham suggested that term limits are a way of “opening a window of opportunity  
15 for the future generation.” He said that there should be change in representation and without term limits  
16 it can become “sort of an establishment.”

17  
18 Hugh Strickland came forward and noted that the CRC’s vote regarding term limits was four to three  
19 against. He said that the Mayor’s position is exactly why he supports the idea.

20  
21 Joelle DeVane came forward and said that once elected, it’s possible a Council Member may want to  
22 stay longer than two terms. She expressed her concern that if limits were imposed on appointed board  
23 member terms it could result in unfilled seats. She suggested making the limit two consecutive terms so  
24 that someone could run again after taking time off, noting that both she and former Council Member  
25 Michelle Polgar were young when they served their terms on Council and that they may be interested in  
26 running again at a later date. Ms. DeVane said that she did not support term limits.

27  
28 Michelle Polgar came forward and said that she is “an advocate for term limits.” She said that she  
29 supported consecutive term limits. She urged Council to bring the issue to the voters in the referendum.

30  
31 Council Member Sherrill stated, “The people saw fit to put me in this office. I think when its time,  
32 they’ll see fit to take me out and I don’t need term limits.”

33  
34 Council Member Mahoney said that one of the arguments he heard in support of districts was that it  
35 would bring “increased representation.” He concurred with Ms. Polgar about the importance of letting  
36 the voters decide certain issues such as districts. However, he did not feel that would apply to term  
37 limits because it would deprive the voters of the opportunity to vote for certain candidates even if they  
38 wanted to. Council Member Mahoney expressed his concern that the combination of districts and term  
39 limits could result in having no candidates at all.

40  
41 Council Member Abraham stated, “We are trying to eliminate some of the less important issues with the  
42 hope that the people will get a chance to vote on certain, more important issues like districts, term limits,  
43 and certain other things which we are going to discuss.”

44  
45 **Council Member Abraham moved that the ballot for the revised**  
46 **charter include a requirement for a limit of two consecutive terms,**  
47 **seconded by Vice Mayor Allebach.**  
48

1 The City Attorney clarified that Section 4.02 would be modified to reflect a requirement for a limit of  
2 two consecutive terms.

3  
4 Vice Mayor Allebach asked for clarification on the motion as to whether it would apply to a particular  
5 seat or to the entire Council. Council Member Abraham said that his motion was for two consecutive  
6 terms on the Council and then you would be required to step down for a period. The Vice Mayor noted  
7 that two terms on the Council now is equal to eight years which is longer than most people with multiple  
8 terms served under the two-year terms in the past.

9  
10 Ms. DeVane stated her understanding that the motion is for consecutive terms which would not preclude  
11 someone from running again after sitting out for a period. Vice Mayor Allebach disagreed and said that  
12 Council Member Abraham's motion was to limit an elected official to two terms, or eight years.

13  
14 Mr. Strickland explained that the CRC had decided to use the language "in any one office" rather than  
15 "on the Council".

16  
17 Council Member Abraham offered clarification by stating, "After eight years of your good work on this  
18 Council why don't we all consider moving to the County level or legislature, or some other place where  
19 there is a need for efficient Council Men who are efficient, experienced people." He noted that there are  
20 sometimes uncontested seats on the County Council. Council Member Abraham suggested that the  
21 other Council Members "get the experience here and look for something else."

22  
23 **Council Member Sandford moved to amend the motion on the floor to**  
24 **provide for two consecutive terms for any one office, seconded by**  
25 **Council Member Laputka.**

26  
27 Mr. Reischmann noted that this amendment would allow a person to serve a total of two terms in any  
28 one office and that they could then serve as a district representative, at-large, and Mayor. Council  
29 Member Mahoney interjected that the "spirit of Council Member Abraham's motion is non-existent."  
30 Council Member Abraham concurred and said that the amendment could not be considered term limits.

31  
32 **Motion to amend passed by 4/3 vote with Council Members Abraham,**  
33 **Mahoney, and Vice Mayor Allebach voting "no."**

34  
35 Vice Mayor Allebach stated, "When I have someone in office that I think is doing a good job whether in  
36 Congress, the State Legislature, the State Senate or the City of Orange City, and when that person comes  
37 up and its time for election on an arbitrary rule made by seven people that created a policy and term  
38 limits tells me as a voter that I can no longer vote for that person to represent me in my district, I am  
39 offended and opposed to it."

40  
41 Council Member Mahoney said that he was told by one of his constituents that term limits would result  
42 in improved representation, although he disagreed with that.

43  
44 Council Member Sandford maintained that term limits would reduce the number of unopposed  
45 candidates. Council Member Mahoney said that there would also be a risk of having no one run for a  
46 seat. Council Member Sandford said that an unopposed candidate does not provide a choice. Council  
47 Member Mahoney concurred, but reiterated his fear that there may be no candidates at all for a seat.

1 Council Member Laputka noted that one of the Council Members in DeLand has been on the Council  
2 for twenty years.

3  
4 Council Member Abraham said that Council does not want to give the impression that they are just here  
5 for a job, rather they want to give an impression that they are serving the city for eight years and then  
6 giving the chance to someone else.

7  
8 Mr. Reischmann clarified the pending motion by stating that a "yes" vote means a vote for a limit of  
9 two, four-year terms on any one seat.

10  
11 **Motion failed by 2/5 roll call vote with Council Members Abraham,**  
12 **Sherrill, Mahoney, Vice Mayor Allebach and Mayor Strickland voting**  
13 **"no."**  
14

15 Mayor Strickland referenced an article from the News Journal which was distributed to Council (a copy  
16 of which is attached and becomes a permanent part of these minutes). He said that the item he wished to  
17 discuss was elections and the issue of whether to change the election to even years rather than odd years.  
18 He observed that a change to even years would mean that an extension of the current terms would be  
19 required.

20  
21 Vice Mayor Allebach stated his understanding that a charter amendment was not needed to change the  
22 election dates. Mr. Reischmann confirmed this as correct. He said that he and the City Clerk, along  
23 with representatives from other municipalities in the County, attended a meeting today at Ms. McFall's  
24 office. He said that Ms. McFall was encouraging all cities to have their elections in even years for the  
25 sake of uniformity, however, that is not a requirement. Council Member Mahoney said he thought the  
26 purpose of changing to even years was to reduce the number of audits which would have to be  
27 conducted. Mr. Reischmann said that Ms. McFall was also requesting a change in the time between the  
28 first and second elections in odd years in order to comply with new statutory audit requirements. He  
29 said that a move from odd to even years may also require a change in terms. Mr. Reischmann noted that  
30 the CRC did not recommend a change from odd to even year elections. He said that it appears the City  
31 will not need to amend its charter in regard to the elections.

32  
33 Vice Mayor Allebach and Mayor Strickland concurred that it would not be difficult to lengthen the time  
34 between the two elections for odd years. The Vice Mayor said that DeLand has general and runoff  
35 elections rather than primary and general, noting that this can be a cost savings. Mayor Strickland said  
36 that he brought this issue up at this time since a charter change to lengthen terms would be required if  
37 Council wanted to move to even years. He said that he favors odd years and spoke in support of  
38 holding general and runoff elections as is done in DeLand.

39  
40 Vice Mayor Allebach explained how the general/runoff election method would work, noting that it  
41 could save the city from automatically having to have two elections if one race has more than two  
42 candidates. Council Member Mahoney also noted that it could save money as well. Vice Mayor  
43 Allebach laid out the process as follows: (1) decision between even and odd years, (2) change to  
44 general/runoff elections rather than primary/general.

45  
46 **Vice Mayor Allebach moved that the City continue with election in**  
47 **odd years only, seconded by Council Member Sherrill.**  
48

1 Council Member Mahoney questioned why a vote is needed when no change to the charter is required.  
2 Vice Mayor Allebach said that it is to notify the Supervisor of Elections formally that the Council  
3 wishes to stay with odd-years. Mr. Reischmann clarified that Council is providing direction to staff  
4 regarding this matter.

5  
6 **Motion passed by 7/0 roll call vote.**

7  
8 **Vice Mayor Allebach moved to direct the City Clerk and City**  
9 **Attorney to draft ballot language to change city elections from a**  
10 **Primary and General Election to a General and Runoff Election,**  
11 **seconded by Council Member Sherrill.**  
12

13 Mr. Reischmann confirmed that this is a change that can only be made by a revision to the City's  
14 charter.

15  
16 In response to a question from Council Member Sandford, Mr. Reischmann explained that the issue of  
17 the time between elections would apply in either a primary/general or general/runoff method of election.  
18

19 Hugh Strickland came forward and stated that his understanding was that the Supervisor of Elections is  
20 requesting a minimum of six weeks, preferably eight weeks between elections. He said that if Vice  
21 Mayor Allebach's proposal is adopted, the general election would be held on the first Tuesday in  
22 September, the day after Labor Day.  
23

24 Mr. Reischmann stated that there was consensus among the cities in attendance at the meeting today that  
25 six weeks between elections would be best. Ms. Renner advised that the memo she distributed included  
26 notes from that meeting.  
27

28 Comments from Bob Miller led to a discussion regarding when the newly elected officials would take  
29 office under the general/runoff system.  
30

31 Hugh Strickland said that an additional consideration regarding swearing in of new Council Members  
32 would be certain restraints in the Charter preventing the Council to take certain actions until the new  
33 members take office.  
34

35 Other considerations such as adoption of the budget and the fact that the new Council would have to  
36 wait for a month to take office were discussed. Council Member Sandford spoke in support of a short  
37 time period between election and swearing in because of the application of the sunshine laws. Mr.  
38 Reischmann noted that the sunshine laws apply as soon as a candidate is elected, it is not related to the  
39 swearing in. It was the consensus of Council that the swearing in take place at the first November  
40 meeting after the election. The City Clerk asked that the language be written as to allow the swearing in  
41 to take place at a special meeting of its own.  
42

43 Hugh Strickland came forward and suggested that perhaps this issue could be addressed in the Council's  
44 Rules and Procedures.  
45

46 Council Member Sherrill noted that the language regarding swearing in is found in Section 2.04 of the  
47 Charter. Mr. Reischmann advised that it would have to be amended to reflect the "first meeting in  
48 November" as opposed to the current "first meeting after the election." He said that Sections 2.04 and

1 4.03 would have to be revised. Mr. Reischmann clarified that a vote in favor of the motion would  
2 provide for a general and runoff election.

3  
4 **Motion passed by 7/0 roll call vote of the Council.**

5  
6 **4. BEGIN REVIEW**

7  
8 **Section 5.04 Emergency Ordinances**

9  
10 Mr. Strickland came forward and noted that there is currently conflicting language in this Section as it  
11 reflects both “may” and “shall.”

12  
13 Mr. Reischmann suggested that this may have been a typographical error and requested that the City  
14 research the prior charter review to confirm. He advised that if the change is typographical in nature, it  
15 can be changed back without placing it on the ballot.

16  
17 **Section 8.02 Commencement of Proceedings**

18  
19 Mr. Strickland advised that this section was taken from the model charter and that a portion of the  
20 language had been left out in error. Mr. Reischmann concurred and stated that the City Clerk had  
21 researched the issue and confirmed that this was the case. Mr. Strickland noted that all of the issues  
22 related to clarification such as this could be placed on the ballot under one question.

23  
24 **Council Member Mahoney moved that the language for this section as**  
25 **set forth by the CRC be adopted, seconded by Council Member**  
26 **Laputka and passed by unanimous 7/0 roll call vote.**

27  
28 **Section 8.04 Procedure for Filing**

29  
30 **Council Member Sandford moved to make the change recommended**  
31 **by the CRC by adding the word “calendar” to “days”, seconded by**  
32 **Council Member Laputka.**

33  
34 Council Member Mahoney said that he had this item removed from consideration on his list because he  
35 did not feel that it was worthy of a ballot question of its own. Mr. Reischmann explained that the CRC  
36 was recommending the change for the sake of consistency with the section above it. The Mayor  
37 explained that all of the items in this portion of Item 4 are there for the same reason.

38  
39 **Motion passed by unanimous roll call vote.**

40  
41 **Section 4.10 Political Activities**

42  
43 **Vice Mayor Allebach moved to leave Section 4.10 as it is currently**  
44 **written, seconded by Council Member Mahoney.**

45  
46 Mr. Strickland came forward and stated that the Committee’s intent was to clarify that employees would  
47 not be able to get involved in political activities related to issues as well as to candidates.

48

1 Bob Storke came forward and noted that it would make the entire section consistent with the prohibition  
2 which was already placed in the earlier part of the section in reference to making campaign  
3 contributions.

4  
5 Council Member Mahoney expressed concern that this prohibition may be in conflict with an  
6 individual's rights. Mr. Reischmann validated that there could be a concern along those line. He said  
7 that this issue has not come up in the past in Orange City. He said that research showed that there is  
8 some case law which creates "concern" about cities placing limitations on employees to prevent them  
9 from exercising their first amendment rights.

10  
11 Lengthy discussion ensued as to whether or not extending this provision to ballot issues would be a  
12 violation of the employee's rights.

13  
14 **Motion passed by unanimous 7/0 roll call vote.**

15  
16 **Section 7.01 Preparation and Submission of Budget**

17  
18 **Council Member Mahoney moved to accept the proposed language**  
19 **from the CRC, seconded by Vice Mayor Allebach.**

20  
21 Vice Mayor Allebach said that this would entail having a goals workshop every year like the one held  
22 this year. Council Member Mahoney said that he thought the process of soliciting input from the  
23 community before the budget is put together was "great." He noted that currently, workshops are held  
24 only after the budget has been completed. Mr. Reischmann said that this item would have to appear on  
25 the ballot with its own question and could not be lumped with other clarifications and/or corrections.

26  
27 **Motion passed by unanimous 6/1 roll call vote of the Council with**  
28 **Council Member Sherrill voting "no."**

29  
30 **Section 2.07 Rules & Journal**

31  
32 **Council Member Mahoney moved to make no changes to Section 2.07**  
33 **in the existing charter, seconded by Council Member Laputka.**

34  
35 Mr. Reischmann explained that the proposed revision is to clarify the minimum requirements for  
36 providing access to meeting minutes. Council Member Mahoney expressed that this item should be  
37 addressed in the Rules & Procedures. Vice Mayor Allebach noted that state law mandates "open  
38 records."

39  
40 Mr. Strickland said that this was brought forward as an effort to provide public access to information at  
41 no cost. He stated, "Placing it in your policies and procedure manual means that it will be changed as  
42 soon as people look away." He reiterated that placing documents such as the budget on the internet will  
43 provide access for people free of charge. Mr. Strickland stated, "Free access keeps freedom."

44  
45 Council Member Mahoney said that he is a proponent of "free access." Vice Mayor Allebach stated,  
46 "It's not a charter function."  
47

1 Mr. Reischmann noted that the area currently under discussion is Charter Section 2.07 which deals  
2 strictly with meeting minutes.

3  
4 Council Member Sandford noted that access via the internet is available twenty-four hours a day from  
5 anywhere and that it is sometimes difficult for working people to get to the office during regular  
6 business hours to purchase copies.

7  
8 Council Member Mahoney reiterated that he fully supports the “concept” of posting information on the  
9 internet and that he expects to find certain things there.

10  
11 Vice Mayor Allebach suggested that there seems to be an issue of “mistrust of government” and that he  
12 believes that improving access to information will continue to be a goal. He further suggested that  
13 charging for copies of information at the office is a way to ensure that requests for information are  
14 serious, otherwise it could become cost prohibitive for the City to fulfill all potential requests.

15  
16 Speaking from the audience, Joelle DeVane clarified that although these things are all presently being  
17 done, the CRC wanted to ensure that this would continue. She said that there have been Councils in the  
18 past that have not wanted open access to records and that this could be the case again in the future. She  
19 stated, “It prepares for the worst and compliments what you guys are doing now.”

20  
21 **Motion passed by unanimous 7/0 roll call vote.**

22  
23 **ADJOURN**

24  
25 The meeting was adjourned at 9:01 p.m.

26  
27  
28 Respectfully Submitted:

Approved on:

29  
30  
31 Deborah J. Renner, CMC  
32 City Clerk

\_\_\_\_\_