

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida,  
2 held on Tuesday, January 13, 2009 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange  
3 City.

4  
5 **CALL TO ORDER**

6  
7 The Meeting was called to order at 7:00 p.m. by Mayor Strickland and roll call was taken.  
8

9 **ROLL CALL**

10  
11 **PRESENT:** Mayor Harley Strickland; Vice Mayor Jeff Allebach; Council Members; Tom Laputka,  
12 Tom Abraham, Jim Mahoney; City Attorney William Reischmann; Interim City Manager  
13 Chester Murray, City Clerk Deborah Renner  
14

15 **ABSENT:** Council Members Donald Sandford and Don Sherrill  
16

17 The Invocation was given by Pastor Bob Berger, Emmaus Lutheran Church  
18

19 **1. ABSENCES**

20  
21 There were no absences to consider.  
22

23 **2. PRESENTATIONS:** None at this time  
24

25 **3. CITIZENS COMMENTS:**  
26

27 Bob Garcia, Mayor of DeBary, came forward and said that he looks forward to working with the  
28 Council. Mayor Garcia stated that he shares an interest in water issues with Mayor Strickland. Mayor  
29 Garcia expressed his concern over the school system and said that a group of Volusia County Mayors is  
30 planning a lobbying trip to Tallahassee to plead for assistance for the schools. He stated, "We need to  
31 protect our children." Mayor Garcia said that the support of all elected officials is needed and he urged  
32 everyone to write to their Legislators.  
33

34 Laurel Price, 715 Oak Terrace, came forward to discuss the ongoing issue in her neighborhood with  
35 feral cats and her problem getting any assistance from animal control. Ms. Price said that she was  
36 advised by Sally Combs that her job as animal control officer for Orange City was "not a real job" and  
37 that she didn't have time to deal with the problems.  
38

39 Chester Murray, Interim City Manager, advised that he was prepared to make a verbal report on the  
40 animal control issue tonight. He said that he has made visits to animal control departments in various  
41 surrounding local governments. Mr. Murray said that currently, \$24,700 is budgeted for animal control.  
42 He said that the City could perform this service "in-house" on a limited basis at a cost of \$3,000 in  
43 additional salaries and \$3,000 in equipment which must be purchased. Staff could be prepared to take  
44 over by March 1<sup>st</sup> which would be the half point of the fiscal year. Mr. Murray said that at the present  
45 time, the only place that will take animals captured by animal control is New Smyrna Beach, however,  
46 Edgewater is contemplating entering the business in the near future. The cost to take an animal to New  
47 Smyrna Beach is \$80 which covers three days and euthanasia if required. Current funding would handle

1 100 animals during the remainder of the fiscal year. If funding runs out before the end of the year, a  
2 budget amendment would be necessary. Mr. Murray expressed his confidence that the City has enough  
3 money to pay for an additional 50 or 100 animals. He said that he anticipates that initially, there will be  
4 a huge surge of animals, but that the number would diminish over time.

5  
6 Mr. Murray stated that what he needs from Council now to get this program started is permission to  
7 provide written notice of cancellation of the contract with Ms. Combs as provided for in the contract and  
8 authorization to enter into an agreement with New Smyrna Beach. He cautioned Council of the  
9 problems to be faced if New Smyrna decides not to provide the service any longer, stating that if the  
10 City had to provide all of the services it could easily cost in excess of \$250,000 per year. Mr. Murray  
11 said that Sergeant Lariscy has agreed to oversee the animal control program.

12  
13 Mr. Murray said that he would be bringing forth an ordinance to require a mandatory spay/neuter  
14 program, noting that it is quite possible the City will need to subsidize the program. He stressed that  
15 this is the only long-term solution to the animal control problem. In addition, he warned Council that it  
16 will be necessary to euthanize a considerable number of animals which may anger some in the  
17 community.

18  
19 **Council Member Laputka moved to terminate the existing animal**  
20 **control contract with Sally Combs and the SPCA, seconded by**  
21 **Council Member Mahoney.**

22  
23 Ms. Price noted that there is a woman in Ormond Beach who is trying to start a feral cat sanctuary. She  
24 speculated that there are many people who would be happy to provide the service at the pay that Ms.  
25 Combs was receiving. Mr. Murray said that the cost of the personnel is not the issue, the cost is in the  
26 disposal and maintenance of the animals. He stated, "I don't want to execute any more than we have to  
27 and we will certainly seek every humane thing. But the practical matter is it's going to happen." Mr.  
28 Murray assured Ms. Price that if Council directs staff to move forward, every humane avenue will be  
29 explored.

30  
31 Vice Mayor Allebach summarized the proposed system, noting that animal control services will be  
32 improved at a very minimal cost.

33  
34 Mr. Murray again cautioned that the City is probably facing several budget increases over the next two  
35 years to get the problem under control. He stated, "We need to go into this with our eyes wide open."

36  
37 Council Member Mahoney said that he also has received calls about animal control issues and he asked  
38 what the current disposal process is for animals. Mr. Murray responded that there is no price as Ms.  
39 Combs works with the ASPCA and they do not euthanize animals. Council Member Mahoney  
40 questioned whether that could be contributing to the current "ineffectiveness." Mr. Murray responded  
41 that Ms. Combs has done a "wonderful job through the years," stating that she is a very caring and  
42 compassionate person. He said that the problem is "becoming overwhelming." Again, he suggested  
43 that the City begin a mobile, subsidized spay/neuter program in order to begin a long-term solution.

44  
45 **Motion passed by unanimous 5/0 roll call vote of the Council.**  
46

1           **Vice Mayor Allebach moved to enter into a new contract with a**  
2           **provider for the services as described, seconded by Council Member**  
3           **Laputka.**  
4

5 Vice Mayor Allebach said that he would prefer to wait until he receives the details of the new program  
6 before he votes to authorize moving forward on it. Mr. Murray said that he would provide a detailed  
7 agenda item at the next meeting, noting that there are negotiations that need to take place which he  
8 needs Council's authority to begin.  
9

10           **Vice Mayor Allebach moved to amend the motion on the floor to**  
11           **authorize the City Manager to enter into negotiations with another**  
12           **facility for animal control services, seconded by Council Member**  
13           **Laputka, and passed by 5/0 voice vote.**  
14

15           **Main motion as amended passed by 5/0 roll call vote of the Council.**  
16

17 Hank Durica, 1310 E. Lansdowne, came forward and noted that it is nearly time for the annual Manatee  
18 Festival. He noted the abandoned gas station on the corner of French and 17-92 and suggested that it is  
19 an eyesore which reflects very poorly on the neighborhood. Mr. Durica asked whether there is anything  
20 Council can do about it.  
21

22 Council Member Laputka noted that a liquor store proposed for the site had been turned down by the  
23 Planning Commission as they did not think it was a good idea.  
24

25 Mr. Murray stated his understanding that the property was in foreclosure. He advised that there are  
26 contamination issues with the soil at the site which is the main factor in why the property remains  
27 vacant. Whoever purchases the property assumes the liability of the contaminated soil. Mr. Murray  
28 said that there have been past code enforcement proceedings against the property and that even though  
29 the property is not "aesthetically pleasing," they had come into compliance with the code. Mr. Durica  
30 noted that the cost of cleanup from the contamination would inhibit the future sale of the property. Mr.  
31 Murray concurred. Mr. Durica asked whether eminent domain could be invoked. Vice Mayor Allebach  
32 questioned why the City would want to assume the expense of the cleanup. Mr. Durica suggested that  
33 the building could just be demolished without a cleanup. Vice Mayor Allebach expressed that there is  
34 "probably not a whole lot the City of Orange City can do to solve the blighted appearance of that  
35 property." Mr. Durica maintained that Orange City is not the only place that has had to deal with such a  
36 problem and that there must be something the City can do.  
37

38 Mr. Reischmann noted that the "fundamental problem with the property" is the contamination issue and  
39 code enforcement options are limited. He advised that the problem with eminent domain is that  
40 following the action, the City would obtain title to the property along with the responsibility for the  
41 remediation of any soil contamination. In order to justify taking private property, it must be established  
42 that there is a public purpose.  
43

44 Mr. Reischmann said that the problems with the property are with the appearance of the structure. He  
45 advised that the code addresses buildings that have become unsafe or have become a nuisance. He said  
46 that he could not determine if the subject property had reached that point. Mr. Reischmann stressed that  
47 just because it does not look good, it does not mean that the City could tear it down for public safety

1 purposes. He suggested that if the property is in foreclosure, it is possible that a lender could be forced  
2 to take responsibility.

3  
4 Mr. Durica suggested that the vacant gas station on the corner of Blue Springs and 17-92 could develop  
5 into the same situation. Mr. Murray said that it is likely that it has contaminated soil as well.

6  
7 Mr. Murray acknowledged that the property is an eyesore, but said that it does not pose a health hazard.  
8 He said that the market will determine the eventual value of the property.

9  
10 **4. CONSENT AGENDA:** None at this time

11  
12 **5. ORDINANCES – FIRST READING:** None at this time.

13  
14 **6. PUBLIC HEARINGS/ORDINANCES – SECOND & FINAL READING:**

- 15  
16 **A. ORDINANCE NO. 367:** An ordinance of the City of Orange City, Florida, amending  
17 Orange City Code Appendix A, Zoning Ordinance as adopted by Ordinance No. 157,  
18 amending Chapter 8, Section 8.6.1 Schedule of Zoning District Permitted and  
19 Conditional Uses; to permit recycling activities within the I-PUD Zoning District;  
20 providing for conflicting provisions; providing for severability; providing an effective  
21 date.

22  
23 Vice Mayor Allebach read the title of Ordinance No. 367 into the record.

24  
25 **Council Member Laputka moved to adopt Ordinance No. 367,**  
26 **seconded by Vice Mayor Allebach.**

27  
28 Jim Kerr, City Planner, came forward and provided a power point presentation. He began by stating that  
29 some changes were made to the ordinance as Council had requested at first reading. Mr. Kerr noted that  
30 the top portion of "Attachment A" relates to household recycling, while the bottom portion relates to  
31 C&D recycling. The change was made to clarify that all of the recycling materials must be previously  
32 separated or extracted. Text was also added in item "c" in both sections to provide that operations must  
33 comply with the DEP permit and all applicable state laws. It also gives Orange City the authority to  
34 enforce the DEP permit and all applicable state regulations.

35  
36 Mr. Reischmann advised that this is an issue that has received quite a bit of attention and study. He said  
37 that the change in footnote "a." clarifies that only materials that have been pre-extracted can be brought  
38 to the site for recycling. The new section "c" in both sections allows the City, for the first time, to begin  
39 enforcement for any perceived violations of required operating conditions.

40  
41 In response to a question from Mayor Strickland, Mr. Reischmann advised that the proposed changes do  
42 not change the intent or purpose of the ordinance so as to delay second reading.

43  
44 Mayor Strickland opened the public hearing by asking if anyone wished to speak in favor of or in  
45 opposition to the proposed ordinance. No one appeared.

46  
47 Council Member Mahoney asked how it would be assured that the gypsum wall board would not be left  
48 on site to accumulate to the point of creating an odor nuisance similar to what was experienced with the

1 landfill. Mr. Murray responded that the odor emanating from the landfill was from the burial of the  
2 gypsum material. This would not be an issue in a recycling facility since none of the materials will be  
3 buried. He stated that the DEP requires that any materials not recycled must be removed from the  
4 premises within a set period of time which he believed is either weekly or a maximum of thirty days.  
5 Mr. Murray further stated that currently there is no technology to recycle gypsum board. If any of this  
6 material enters the site, state law, as well as City code, requires that it must be removed within the set  
7 time limit. Council Member Mahoney clarified that his concern was that it would be allowed to sit at  
8 the site so long that it would begin to rot, thus causing an odor. Mr. Murray expressed his confidence  
9 that this will not become an issue.

10  
11 Council Member Laputka stated that he supports the amended ordinance.

12  
13 Council Member Abraham stated, "Mayor, last time you asked a very good question to the City  
14 Attorney, why this is coming now? And we got an answer for that so I am looking forward to solve the  
15 problems we face in our City with this."

16  
17 Hearing no further requests to speak, the Mayor closed the public hearing.

18  
19 **Motion to adopt Ordinance No. 367 on second and final reading**  
20 **passed by 4/1 roll call vote with Vice Mayor Allebach voting, "no."**

21  
22 **7. RESOLUTIONS:**

- 23  
24 **A. RESOLUTION NO. 518-09:** A resolution of the City Council of the City of Orange  
25 City, Florida, receiving and accepting a certain South Sparkman Avenue tract of property  
26 in the form of a dedicated right-of-way easement from Sparkman LLC, for public road  
27 purposes; repealing all resolutions or parts of resolutions in conflict herewith; and  
28 providing for an effective date.

29  
30 Vice Mayor Allebach read the title of Resolution No 518-09 into the record.

31  
32 **Council Member Laputka moved to adopt Resolution No. 518-09,**  
33 **seconded by Vice Mayor Allebach.**

34  
35 Jim Kerr came forward and noted that two new schools have opened in Orange City recently. All of the  
36 traffic to the schools is presently coming down Blue Springs. He explained that what is needed is to  
37 reroute the traffic to Sparkman Avenue for access to the schools, noting that this is what the City had  
38 always intended to be the main access. He noted the location of the subject properties in Resolution  
39 No.'s 518-09 and 519-09 on a map and advised that the resolutions will provide acceptance by the City  
40 of the right of ways necessary to construct the road extension. Resolution No. 518-09 conveys the right  
41 of way from the owners of Sparkman Ridge subdivision and 519-09 conveys the right of way from the  
42 School Board.

43  
44 Vice Mayor Allebach clarified that the easements are necessary in order to build the road.

45  
46 Mr. Reischmann advised that additional items will be coming forward for consideration in this matter.  
47 Resolution No. 521-09 will authorize a Joint Project Agreement (JPA) with Volusia County to construct  
48 the Sparkman extension under the existing contract for construction of Rhode Island. There will be an

1 additional JPA with Volusia County for utility installation and a resolution providing for funding of the  
2 extension via a special assessment. Mr. Reischmann noted that the project must be completed prior to  
3 the start of the 2009/2010 school year.  
4

5 Council Member Laputka observed that utilizing a JPA to complete the work realizes a considerable  
6 cost savings. Mr. Reischmann concurred and noted that this will avoid mobilization costs.  
7

8 Mayor Strickland said that he met the principal at River Springs Middle School who expressed concern  
9 for the safety of the children since there is currently only one way in and out of the new schools.  
10

11 Mr. Reischmann recalled that, originally, the extension was to be built by the developers of Sparkman  
12 Ridge. Since that development is on hold, the road project stalled. Because of the safety issue for the  
13 children, the City had to step in and make sure that progress continued. He noted that the cost of the  
14 project will still be borne in its entirety by the owner of the Sparkman Ridge property. Mr. Murray  
15 commended Sparkman LLC for voluntarily agreeing to assume responsibility for the project so that it  
16 could move forward due to its importance.  
17

18 **Motion passed by 5/0 roll call vote of the Council.**  
19

- 20 **B. RESOLUTION NO. 519-09:** A resolution of the City Council of the City of Orange  
21 City, Florida, receiving and accepting a certain South Sparkman Avenue tract of property  
22 in the form of a dedicated right-of-way easement from the Volusia County School Board,  
23 for public road purposes; repealing all resolutions or parts of resolutions in conflict  
24 herewith; and providing for an effective date.  
25

26 Vice Mayor Allebach read the title of Resolution No. 519-09 into the record.  
27

28 **Council Member Laputka moved to adopt Resolution No. 519-09,**  
29 **seconded by Council Member Mahoney and passed by 5/0 roll call**  
30 **vote of the Council.**  
31

- 32 **C. RESOLUTION NO. 520-09:** A resolution of the City of Orange City, Florida,  
33 correcting scrivener's errors contained within prior City of Orange City resolution Nos.  
34 515-08 and 516-08; said prior resolutions pertaining to the referendum to be held on  
35 February 17, 2009 by a mail ballot for the purpose of proposing amendments to the City  
36 Charter; repealing all resolutions or parts of resolutions in conflict herewith; and  
37 providing for an effective date.  
38

39 Vice Mayor Allebach read the title of Resolution No. 520-09 into the record.  
40

41 **Council Member Mahoney moved to adopt Resolution No. 520-09,**  
42 **seconded by Council Member Laputka.**  
43

44 Mr. Reischmann noted that the purpose of this resolution is to correct typographical errors in prior  
45 resolutions related to the upcoming charter referendum. He apologized for the errors and noted that the  
46 language submitted to the Supervisor of Elections for the ballot was correct.  
47

48 **Motion passed by 5/0 roll call vote of the Council.**

1           **D. RESOLUTION NO. 521-09:** A resolution of the City of Orange City, Florida,  
2 approving a Joint Project Agreement with Volusia County to construct South Sparkman  
3 Avenue between Ohio Avenue and Rhode Island Avenue; repealing all resolutions or  
4 parts of resolutions in conflict herewith; and providing for an effective date.  
5

6 Vice Mayor Allebach read the title of Resolution No. 521-09 into the record.  
7

8           **Council Member Mahoney moved to adopt Resolution No. 521-09,**  
9 **seconded by Council Member Laputka.**  
10

11 Jim Kerr came forward and said that Volusia County has been very helpful in making this project  
12 possible. Mr. Murray noted that the County has an existing contract to construct West Rhode Island.  
13 As a government entity, Orange City is permitted to attach to that contract via a change order to  
14 complete the necessary work on Sparkman Avenue. Mr. Murray advised that construction on the  
15 project will begin in late February and will be completed in approximately 120 days. Volusia County is  
16 providing the field engineering for the project. The project also includes the installation of an extension  
17 of the water line. Mr. Murray stated that working with the County on this project has been "very  
18 enjoyable." Mayor Strickland said that at a meeting recently, the County Chairman mentioned this  
19 project as an example of the County working in partnership with the cities.  
20

21 Council Member Abraham questioned the reason for paragraph 19 of the JPA which waives both party's  
22 rights to a jury trial in the event of any lawsuit filed regarding the project. Mr. Reischmann responded  
23 that a final decision in any lawsuit would be rendered by a judge rather than a jury. Mr. Murray noted  
24 that this is a common practice in "government-to-government" contracts. Mr. Reischmann advised that  
25 it is less expensive to litigate a case before a judge than before a jury.  
26

27           **Motion passed by 5/0 roll call vote of the Council.**  
28

29 **8. DISCUSSION AND ACTION:**  
30

31 **A. Traffic Light Funding**  
32

33 Mr. Murray began his presentation by recalling that when the West Volusia Retail Center located on  
34 Harley Strickland between Junior and Threadgill Streets was approved, the development agreement  
35 required the developer to install a traffic light at that intersection. At the time of planning for this  
36 project, the standard light was budgeted at \$125,000 which included the crosswalks. Over time, it has  
37 become apparent that a synchronized, computer controlled system of traffic lights is needed for that  
38 entire quadrant. The need for the installation of fiber optics to control this system adds \$100,000 to the  
39 cost for the signal. Mr. Murray said that the developer has requested financial assistance from the City  
40 toward the project and that a special taxing district was discussed as a possible solution.  
41

42 Mr. Murray said that it costs approximately \$35,000 to establish a taxing district which is added to the  
43 amount of the capital being funded no matter what size the capital is. Interest at the prevailing rate is  
44 assessed to be paid back over a ten-year period. Mr. Murray said that the Developer has agreed to the  
45 assessment.  
46

1 Mr. Murray stated that since the opening of Kohls and the other stores in the center, there have been  
2 forty-two crashes at this intersection. He speculated that once the final phase of the Retail Center  
3 opens, Threadgill will become even more heavily traveled than it currently is.  
4

5 Mayor Strickland asked how much the City has invested in the development of the projects along this  
6 corridor. Mr. Murray responded that the City has never made a capital investment in infrastructure in  
7 the entire area. Kohls and the hospital paid for the stop light at their entrance. Volusia County paid for  
8 the light at Veterans Memorial. The Mayor asked what type of precedent would be set if the City  
9 partners with this developer to get the light installed without a special assessment. Mr. Murray  
10 responded that it would be an investment of taxpayer money in infrastructure. He likened it to installing  
11 a water or sewer line. Mr. Murray stated that he would have "no problem" with the City partnering in  
12 this effort and said that all that would be needed would be a budget amendment later in the year. He  
13 stated, "Understand that I am not here, and the Developer is not here asking for that money. They're  
14 asking for a special taxing district and they're willing to pay this back over ten years." Mr. Murray said  
15 that he considered it "money well spent" and could almost be considered an "obligation." Mayor  
16 Strickland and Mr. Murray pointed out that the project will benefit Lowes, Target, LA Fitness, the  
17 Hospital and all of the other projects in the area.  
18

19 Council Member Laputka said that the Mayor's observation must be considered.  
20

21 Vice Mayor Allebach said that he could not support the donation of taxpayer money to benefit a  
22 developer in these hard times. He stated, "This is not the federal government creating bail outs for  
23 banks." He said that he would only support the City providing the financing mechanism for the project.  
24 The Vice Mayor noted the cost that the City has already had to incur by responding to the accidents in  
25 the area.  
26

27 Mayor Strickland suggested that it would be a "clear advantage to the citizens of this town" to have all  
28 of the lights in the area tied together and for the City to play a part in that.  
29

30 Council Member Mahoney said that he agreed with Vice Mayor Allebach that the City should not fund  
31 the entire amount. He said that if the City had anticipated the need for the fiber optics, all of the  
32 developers could have been made to share in the cost. Council Member Mahoney said that he did not  
33 think it was necessarily fair to ask the developer to incur the expense of the fiber optics for the entire  
34 lighting system. He also said that he agreed with Vice Mayor Allebach that they are, however,  
35 responsible for the cost of the light as specified in the developers agreement.  
36

37 Council Member Laputka concurred.  
38

39 Council Member Abraham said that he was not sure whether the City should participate in the funding  
40 or not. He said it was hard to determine what impact it would have on future development.  
41

42 Vice Mayor Allebach suggested that the City could pay the administrative costs associated with the  
43 special assessment district. He reiterated his belief that the taxpayers should not pay for something that  
44 will benefit a private individual.  
45

46 The Mayor expressed that he did not feel it was fair for the developer to pay for the whole thing.  
47

1 Mr. Reischmann asked what degree of specificity was included in the development agreement in regard  
2 to the light. Mr. Murray responded that it did not include the fiber optic links. He stated his  
3 understanding that the developer is not asking the City to create a special assessment district for the  
4 entire cost of the stop light (\$225,000), rather it is just for the additional funds needed for the fiber optic  
5 system (\$100,000). He further stated that the developer is in a financial position to pay the original  
6 \$125,000. Mr. Reischmann noted that the costs to establish a special assessment district will remain the  
7 same regardless of the amount of money involved.

8  
9 Mr. Murray said that it would be his intent, if Council accepts the special assessment district, to advance  
10 the money from the City's reserves. It would then be paid back through the general fund in the manner  
11 specified in the assessment. He recommended that if it is Council's desire to take part in the funding, he  
12 would prefer not to earmark the funds for a specific purpose as was suggested by Vice Mayor Allebach  
13 (i.e., to pay for the costs to establish the assessment district) as it could set a precedence. He clarified  
14 that an assessment district is the only way to be assured that the money will be paid back to the City.

15  
16 In response to a question from Mr. Reischmann, Mr. Murray stated that a total of five stop lights will be  
17 connected by the fiber optic. Mr. Reischmann questioned why the developer would want to pay an  
18 additional 40% on the \$100,000 to use the assessment method of obtaining funding. Mr. Murray  
19 responded that the credit market is "tight." Mr. Reischmann suggested that the funding could be  
20 obtained through a "mortgage modification." Mr. Murray said that the issue is what, if any, portion is  
21 the City willing to absorb.

22  
23 Mayor Strickland said that he would like the City to be a partner in the process because it benefits a  
24 broad range of individuals.

25  
26 Council Member Mahoney stated, "It's just that if we partner, it's the citizens of Orange City who bear  
27 that extra cost. If we assist the developer such that the City is refunded its monies, then anybody who  
28 does business in that facility will ultimately bear that cost and that includes people who are outside our  
29 city limits." Council Member Mahoney suggested that the City give a mortgage to the developer. Mr.  
30 Reischmann noted that the City would be in an inferior position on a mortgage because of the large  
31 obligation of the first mortgage. Mr. Murray said that the only way to assure repayment is through a  
32 taxing district because it is a superior lien on the property and must be paid at some point.

33  
34 Council Member Laputka maintained that the developer of the project is meeting his obligation as  
35 imposed in the development agreement by paying for the traffic signal. The addition of the fiber optic is  
36 an enhancement to the City and, as such, should be the responsibility of the City.

37  
38 Council Member Mahoney suggested that the interest rate be zero and that the developer incur all costs  
39 associated with the special assessment district. He said that the interest the City would get on a five-  
40 percent note is less than the cost that would be incurred if the City assumes the cost of establishing the  
41 special assessment district. Mr. Murray responded that the actual loan amount would then be \$135,000  
42 which at zero percent interest would be repaid at \$13,000 per year for ten years. He expressed that the  
43 developer would probably accept such an offer. Mr. Murray said that his concern is whether Council is  
44 interested in establishing a special assessment district for this project and he noted that his  
45 recommendation would be that Council use \$100,000 from reserves to fund the project rather than  
46 borrowing it.

47

1 In response to a question from Mayor Strickland, Mr. Murray stated that the Staples store is required to  
2 have the light in place before they open. They are scheduled to open in March. He stated, "If you want  
3 to be brutal and the City can walk away from this deal and it's the Developer's problem to deal with."  
4 He said that he offered to bring the request to Council. Mr. Murray said that he believed the special  
5 taxing district could be established in sixty to ninety days.

6  
7 Vice Mayor Allebach pointed out that the issue is not the financing details. He said that what he was  
8 hearing was two Council Members who had objections to any type of financing because they felt it was  
9 the City's responsibility to provide the funds for the enhancements. He questioned proceeding with a  
10 discussion on financing options when there does not appear to be agreement among the Council on what  
11 the City's role should be.

12  
13 Paul Rasch, 2058 King Richard's Court, came forward and said that he supports the Mayor's proposal,  
14 noting that this project will benefit businesses all the way to Publix. He discussed the difficulty getting  
15 in and out of the Breezewood subdivision and the apartment complex in the area. Mr. Rasch stated,  
16 "It's easily worth \$100,000. If I had the \$100,000, I'd pay for it myself."

17  
18 At the request of Council Member Laputka, Deputy Fire Chief Rick Beauregard came forward. He  
19 advised that the corner in question "must be used very strategically for survival."

20  
21 Mr. Reischmann noted that this particular traffic signal is one of five that would be linked for  
22 synchronization by the proposed fiber optic system and that the current agreement would require one  
23 person to pay for all of the lights. He suggested that the Council consider funding 4/5 of the \$100,000  
24 from the City.

25  
26 Council Member Laputka questioned what would have happened if the cost of the light was not part of  
27 the development agreement. Vice Mayor Allebach responded that it is, therefore, it doesn't matter.  
28 Council Member Laputka reiterated that it is part of the agreement, thus half the cost of the light is being  
29 borne by this developer.

30  
31 Council Member Abraham stated that a stop light is not the only thing that prevents accidents. He  
32 suggested that signage warning of a high rate of accidents in the area could also help, along with things  
33 like doubling traffic violation fines in the area. Council Member Laputka said that a light would still be  
34 needed at the intersection.

35  
36 Vice Mayor Allebach said that he could not support a \$100,000 contribution from the City, but that he  
37 could go with \$50,000.

38  
39 Mr. Reischmann noted that the Developer has agreed to pay for the entire cost for this project. He is  
40 asking the City to reimburse him for the \$100,000 portion. Mr. Murray agreed that the light will be  
41 installed as mandated. He stated that the issues are the fact that the cost for the traffic light exceeded the  
42 budget and that he proposed to bring the request to Council for a special taxing district. He continued,  
43 "The issue came up tonight, does the City wish to absorb any of that cost."

44  
45 Vice Mayor Allebach reiterated that the City has committed funds to the project...it is just a matter of  
46 how much. He said that he would vote "yes" to invest \$50,000 in the project, but that he could not  
47 support any more.

48

1 Council Member Abraham concurred with the Vice Mayor.

2  
3 Council Member Mahoney expressed his concern that Council has not heard anything from the  
4 Developer regarding the need for help in obtaining the funds. He asked, "There's a contract here for  
5 \$225,000. Can the developer honor the contract if the City did nothing?" He said that if the answer is  
6 "yes," then Council does not need to worry about the special assessment and could then decide on the  
7 City's proportionate share.

8  
9 Mr. Murray clarified stating, "There is no option for the Developer. He's got to spend the money. The  
10 offer of the request for a special taxing district was to offer some relief for additional costs that were  
11 unanticipated at the time."

12  
13 Mr. Reischmann clarified by stating, "What I'm seeing and hearing is that this developer recognizes the  
14 legal obligation to put in this light. It has signed a contract to put in this light for \$225,000. The  
15 \$225,000 includes the cable to synchronize the different signals. The benefit to the developer, of a  
16 special assessment district, is that it would provide some reimbursement in the short run for the  
17 unanticipated extra expense which then could be paid back, not just by the developer, but potentially a  
18 subsequent purchaser of this project over the period of time associated with the special assessment  
19 district, or the lessees. So really, it's a funding mechanism to address this unanticipated extra amount."  
20 Council Member Laputka stated, "There's a cost associated with that funding." Mr. Reischmann  
21 concurred and stated, "And that's the down side of that." Mr. Reischmann explained some of the  
22 legalities associated with the establishment of a special assessment district. He said that there could be  
23 legal issues around whether one property could be assessed the cost when there are actually multiple  
24 beneficiaries from the project.

25  
26 Mr. Murray reiterated Council's options in this matter, noting that they could choose to do nothing at all.  
27 Council Member Laputka expressed that the City does bear some responsibility. Vice Mayor Allebach  
28 suggested that the Manager be directed to ensure that the City's contribution makes sense and report  
29 back to Council. He again expressed his support for a \$50,000 contribution from the City, noting the  
30 many businesses that would benefit from the expenditure.

31  
32 Council Member Mahoney recalled that two options were presented, one for a partial contribution and  
33 one for a full contribution. He said that if an assessment district is needed, Council should choose the  
34 partial option and create an assessment district specifically to fund the optics portion of the project.

35  
36 Vice Mayor Allebach said that what is needed is to send the Interim City Manager back to determine  
37 what is the best solution for him with the options presented. Mr. Murray said that he would bring this  
38 item back at the next meeting.

39  
40 Mr. Murray said that he would return with an agenda item that clarifies the situation and provides three  
41 options to Council.

42  
43 **9. NEW BUSINESS:**

44  
45 Council Member Abraham requested an agenda item to discuss the monthly reports and legal expenses  
46 for October and November. He said that he has discussed this matter with Mr. Murray, who agreed to  
47 bring it to the Council for discussion.

48

1 Council Member Laputka said that he would like to see a discussion regarding some of the  
2 vacant/abandoned properties along 17-92. Mr. Murray responded that there are avenues the City can  
3 pursue to address this issue.  
4

5 Mayor Strickland requested a discussion regarding the need for a recycling policy and issues  
6 surrounding gas usage. Mr. Murray suggested that this may be a good discussion for the goal setting  
7 workshop.  
8

## 9 **10. REPORTS**

### 10 a. City Manager

11 Mr. Murray announced that the City newsletter will be going out at the end of January/first of February.  
12

13 Dates available for the goal setting workshop are: April 13 & 15; April 27 & 28; or May 4 & 6. He  
14 requested that Council select a date. Council Member Allebach announced that he will not be available  
15 any dates other than the 13<sup>th</sup> and 15<sup>th</sup> of April.  
16  
17  
18

19 **It was the consensus of Council to schedule the 2009 goal setting**  
20 **workshops for April 13<sup>th</sup> and April 15<sup>th</sup>.**  
21

22 Mr. Murray announced that the City's Consumptive Use Permit (CUP) has been approved. He asked  
23 Paul Johnson, Public Works Director, to come forward to provide the details, stating that it is a nine-  
24 year CUP which will allow a 2.54 million gallon per day (mgd) withdrawal. He noted that the Water  
25 Management District predicted that the City would use 2.4 mgd in 2008 and in actuality only 1.7 was  
26 pumped. He explained that there are some conditions on the permit. One is related to landscape  
27 irrigation which must be done in accordance with the rules in the Florida Administrative Code. There is  
28 also a requirement for the City to proceed with development of an alternative water supply beginning in  
29 2010 along with water supply partners. Progress toward this must be reported on annually. Mr. Johnson  
30 noted that the City had no additional requirements or unusual restrictions in its CUP. He stated, "We're  
31 in good shape."  
32

33 Mr. Reischmann said that a hearing officer just ruled in favor of Seminole County regarding a water  
34 dispute over the development of a surface water treatment plant for water to be removed from the St.  
35 Johns River.  
36

37 Mr. Murray said that the format of the quarterly financial reports is being changed somewhat and that he  
38 would be providing a commentary along with them. He reported that revenue projections are down  
39 \$407,000 through December. Correspondingly, expenses are \$398,000 below budget. He said that staff  
40 would be monitoring revenues very closely. Mr. Murray attributed the revenue deficit to the fact that  
41 people are waiting until the final deadline to pay their property taxes this year. He said that he was  
42 going to delay any capital expenditures and some operating expenditures until the last quarter of the  
43 year. Evaluations will be made at that time as to whether or not the expenditures should be made. He  
44 predicted that the City will end up about \$300-\$350,000 under budgeted estimates for revenue. Mr.  
45 Murray stated, "As we sit here tonight, we are in no kind of financial problems and we're certainly not  
46 threatening anybody's positions or anything. Our savings are coming out of capital and operating  
47 expenses.  
48

1 Mayor Strickland noted that the agendas have been getting lighter over the past several months and he  
2 questioned whether the City's business could be completed in one monthly meeting. He suggested that  
3 a determination could be made at that time as to whether or not an additional meeting was necessary.  
4 Mr. Reischmann noted that the Charter requires at least one regular meeting each month. Council Rules  
5 & Procedures provide for meetings on the second and fourth Tuesday of each month. Mr. Murray noted  
6 that for the past couple of years, the need for two meetings has been driven mainly by the development  
7 review process, however, things in that department have slowed significantly. He suggested that the  
8 need for a second meeting could be determined at the first meeting during the City Manager's report.  
9 Mr. Reischmann read from the Council Rules & Procedures which provide that regular meetings can be  
10 cancelled by Resolution of the Council, or by the City Manager due to lack of agenda items as long as  
11 one regular meeting is held each month. Council Member Mahoney said that his only issue with one  
12 meeting is taking away the citizens' opportunity to comment to the Council. Mayor Strickland  
13 suggested that the fourth Tuesday could be used to hold workshop meetings. Mr. Murray said that there  
14 is no pressing business upcoming which would require a second meeting in January.

15  
16 Mr. Reischmann said that there will be some issues related to the Sparkman Avenue construction which  
17 will require Council approval prior to February 10<sup>th</sup>. Mr. Murray advised that a second meeting would  
18 be required for January to handle these issues. Mayor Strickland questioned whether there would be any  
19 time available on the regular meeting days to schedule workshops. Mr. Reischmann noted that three  
20 issues had been brought up under "New Business." Ms. Renner noted that a workshop to discuss the  
21 revised Personnel Policies & Procedures needs to be scheduled. Mayor Strickland advised that he  
22 would prefer to delay that discussion until May or June.

23  
24 Council Member Mahoney asked when the development agreement for the recycling facility would  
25 come forward. Mr. Murray responded that it would not be until February.

26  
27 b. Mayor/City Council

28  
29 Mayor Strickland noted that everyone had received a copy of a letter that was delivered to business  
30 owners along 17-92 requesting that they call the Mayor to discuss plans for the area. The Mayor  
31 advised that forty responses had been received. He has scheduled a meeting for tomorrow with a small  
32 group of the people who had responded. The Mayor said that he wanted to talk with the people to get  
33 their thoughts on where the City is and to talk about things that will affect them, as well as what areas  
34 they may like to get involved in. One of the topics will also be what the 17-92 corridor will look like in  
35 twenty years. The Mayor said that he hopes to have a series of these meetings which will result in more  
36 involvement from people. He said that he will not be speaking on behalf of the Council, but just hopes  
37 to gain more insight as to what types of issues the people want to get involved with. Mayor Strickland  
38 said that he would prefer that other Council Members don't attend at this stage, but that if the businesses  
39 have specific issues, he would recommend that they contact members of the Council. Mr. Reischmann  
40 clarified that other Council Members could attend, however, they must be careful not to speak as it  
41 could lead to a violation of the sunshine laws. The Mayor said that he would report back to Council on  
42 the outcome of the meetings.

43  
44 Mayor Strickland reported that the Library has experienced leaks recently and repairs are under way.  
45 The walls of the basement had to be sealed and work was done on the septic system. He said that it will  
46 probably be necessary to borrow money to complete the repairs since cost estimates are around \$25,000.  
47

1 Mayor Strickland requested that Council Members be given a copy of the Parks Master Plan. He drew  
2 attention to the types of trees called for in the plan, noting that the plan calls for red maples to be planted  
3 for Arbor Day. He said that he is recommending that the Tree Board meet to discuss the types of trees  
4 to be planted, noting that he prefers Oak trees over the Red Maples. Mr. Murray said that he did not  
5 have a preference regarding which type of tree is planted, but that he felt if the plan was going to be  
6 changed, direction to do so should come from the Council/Tree Board rather than staff.

7  
8 **It was the consensus of Council that the Red Maple trees called for in**  
9 **the Parks Master Plan be replaced with Live Oaks.**

10  
11 c. City Clerk

12  
13 The City Clerk noted that she had distributed a copy of a brochure she had created explaining the  
14 upcoming charter amendments. She asked that Council review the brochure and provide any comments  
15 to her by Friday as she was planning to mail the brochure next week. Information regarding the charter  
16 referendum will be posted on the City's website.

17  
18 d. City Attorney

19  
20 Mr. Reischmann said that he has been working to resolve concerns brought to the Council regarding the  
21 Tel-Connect business. He recalled that the business owner had misrepresented his business activities to  
22 the City which resulted in the City pursuing code enforcement action against the business. The code  
23 enforcement Special Master ruled in favor of the City and imposed a fine which is currently  
24 accumulating. The business owner then filed suit against the City. An agreement was reached with the  
25 business requiring them to apply for a conditional use permit. The judge entered a stay on the lawsuit  
26 on January 7<sup>th</sup> and gave the property owner sixty days from December 18<sup>th</sup> to submit the application for  
27 a conditional use permit and it has not been received as yet. Fines are still accumulating at \$50-\$75 per  
28 day. Mr. Reischmann advised that the City will be meeting with the new State Attorney regarding this  
29 issue and he will prepare a report to Council on the outcome of that meeting. He said that seeking relief  
30 through the State Attorney's office is the preferable resolution to the problem. He stated, "So that's  
31 where we are. We are doing everything that we can from a civil side to make sure that our codes are  
32 enforced."

33  
34 Mayor Strickland asked when Council could expect a report on the DEP meeting. Mr. Murray said that  
35 his intent was to bring an agenda item which discusses all of the issues at the next Council Meeting. He  
36 said that the meeting with DEP went well. They agreed to accept some of the City's data. Now, the  
37 DEP has said that they need to establish the limits of the spread of the contamination plume. He said  
38 that he intends to sign a right of way use permit this week or early next week to allow them to place an  
39 additional test well on the northeast side of Leavitt Avenue above Georgia to determine if the plume has  
40 moved there. Mr. Reischmann said that the DEP has agreed to review some of its earlier conclusions  
41 and to acknowledge the City's consultant's findings that there is a probability that the contamination is  
42 not just moving north and west, but also could be moving south and east. In addition, they have  
43 acknowledged that they will need to address not just the horizontal movement of the plume, but also the  
44 vertical movement which addresses the Floridan aquifer. Mr. Murray noted that DEP has also  
45 acknowledged that they recognized that there was a pollution issue in 1985 at which time they  
46 recommended remedial action. Mr. Murray advised that the DEP had denied this until now. Mr.  
47 Reischmann stated, "It's good progress, not only with regard to the groundwater contamination issue,  
48 but also with regard to the ongoing noncompliances with operational requirements out there as well. He

1 said that this issue is being addressed on several fronts and that he would bring a full report at the next  
2 meeting.

3  
4 **11. APPROVAL OF MINUTES:** December 9, 2008 Regular Meeting

5  
6 **Council Member Laputka moved to approve the minutes of the**  
7 **December 9, 2008 Regular Council Meeting, seconded by Vice Mayor**  
8 **Allebach and passed by a unanimous 5/0 voice vote of the Council.**  
9

10 **12. COUNCIL COMMENTS**  
11

12 Vice Mayor Allebach reminded Council about the Manatee Festival on January 24<sup>th</sup> and 25<sup>th</sup>. He  
13 invited everyone to come and said that he needs volunteers to sell T-Shirts. The Vice Mayor advised  
14 that there is a League of Cities dinner on the 22<sup>nd</sup> in Edgewater. On February 18<sup>th</sup>, the League of Cities  
15 and VCARD are sponsoring a luncheon at which there will be a panel discussion on the domino-effect  
16 of the economic downturn with developers and cities. He said that the State has historically relied on  
17 growth to spur its economy and now that the growth is gone, “we’re going to end up paying a lot more  
18 to be here.”  
19

20 Council Member Abraham noted that the invocation this evening was “a little bit different than the  
21 normal invocation” and said that he “did not mind that.”  
22

23 Mayor Strickland reported that he met with Mr. Gallahan regarding his lien and found that he moved  
24 back into his house. He said that Mr. Gallahan had experienced health problems including depression  
25 and had neglected care of the property. The Mayor said that Mr. Gallahan has agreed to discuss his  
26 situation at a code enforcement hearing. Mayor Strickland said that Evelyn Robinson asked that he  
27 commend Deputy Fire Chief Beauregard and Chief Baskoff for the compassionate way they handled a  
28 recent situation in their neighborhood. Mayor Strickland reported another incident recently where  
29 someone was stopped by a police officer who went above the call of duty and he commended the officer  
30 for the way that he handled the stop. He stated, “We do have officers with these kinds of skills, we do  
31 have folks in our Fire Department with these kinds of skills, and that when these kind of things happen,  
32 folks need to know good stuff is happening and we are really appreciative of it.”  
33

34 **13. ADJOURN**  
35

36 There being no further business, Mayor Strickland adjourned the meeting at 9:56 p.m.  
37  
38

39 **RESPECTFULLY SUBMITTED:**  
40  
41

**APPROVED ON:**

42  
43 Deborah Renner, CMC  
44 City Clerk  
45

1/27/09