

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,
2 Florida, held on Tuesday, May 26, 2009 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue,
3 Orange 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, Don Sherrill, Paul Rasch; Jim Mahoney; City Attorney William Reischmann;
13 Interim City Manager Chester Murray, City Clerk Deborah Renner

14

15 **INVOCATION**

16

17 The Invocation was given by Joy Marmur, Living Water Free Methodist Church, followed by the
18 Pledge of Allegiance.

19

20 1. **ABSENCES:** Should Vice Mayor Allebach absence on April 28, 2009 be excused?

21

22 Should the absence of Vice Mayor Allebach on April 28, 2009 be excused?

23

24 **Council Member Mahoney moved to excuse the absence of Vice**
25 **Mayor Allebach from the April 28, 2009 meeting, seconded by**
26 **Council Member Sherrill and passed with a unanimous voice**
27 **vote of 6/0.**

28

29 2. **PRESENTATIONS:** None at this time.

30

31 3. **CITIZEN COMMENTS:**

32

33 Ron Saylor, 361 Dixson Street came forward and distributed a copy of his monthly water bill to
34 Council (a copy of which is attached and becomes a permanent part of these minutes). Mr. Saylor
35 said he agrees with the new rate increase, but objects to the way it was implemented. He said he
36 paid his bill before the new rate was enacted and was still billed for the rate increase. According to
37 the adopting Resolution, the new rate was to take effect after May 1. He stated, "I'm being billed at
38 a new rate that did not apply for the water that I got." "That just don't hack it in my book." Mr.
39 Saylor questioned why he received an extra bill and asked Council to address the matter. He stated,
40 "If you are not going to do anything about it, I've got to do something, I can't let the people on my
41 street live underneath this kind of bureaucracy." Mr. Saylor maintained that the billing should not be
42 applied retroactively.

43

44 Joan LaFleur, 20A Azalea Drive, President Village Improvement Association (VIA) came forward
45 and distributed an end-of-year-report on the VIA's use of the Albertus Cottage to Council (a copy of
46 which is attached and becomes a permanent part of these minutes). Ms. LaFleur read the report into

1 the record. She said that the VIA is happy at Albertus Cottage and they appreciate the additional
2 space. The VIA have begun to provide tours of the Cottage and has collaborated with the Orange
3 City Elementary School PTA to provide historical walking tours of the cottage to the students. Staff
4 have been working with the VIA to get historical artifacts displayed in the cottage. In conclusion,
5 Ms. LaFleur stated the VIA wants to contribute to the maintenance of the Cottage by providing pull
6 shades for the windows, she noted the historic style of the Cottage would be maintained. Ms.
7 LaFleur thanked Council for allowing the VIA the use of Albertus Cottage.

8
9 Henry Durika, 1310 East Lansdowne Avenue, came forward and congratulated Council on getting
10 the districts done so quickly. He asked for a status report on the traffic light on Harley Strickland
11 Blvd. He recalled that staff anticipated the City's cost would be under \$100,000. Mr. Murray
12 responded the installation of the light was to coincide with the opening of the Staples store, which
13 has been delayed. Staff is waiting for the bids from the contractor with regard to the City's
14 contribution to the traffic light. He said the final cost would be brought before Council for approval.
15 Mr. Durica suggested staff should keep the costs significantly below the anticipated cost. Mr.
16 Durica advised there is a new requirement for gas stations to be double-tanked that takes effect
17 January 2010. He noted there are numerous abandoned gas stations along U.S. 17-92 that must
18 become compliant and suggested that someone check with these gas stations owners. Mr. Murray
19 said he was aware of the new requirement and some of the gas stations have already made the
20 change. However, some of the stations are leased and he is unaware of their status.

21
22 Mayor Strickland remarked he discussed this issue with a gas station owner and was advised that it
23 is too costly to lease gas stations. Mr. Durica expressed his concerns that the abandoned gas stations
24 must be made to comply with the upcoming federal mandate. Mr. Murray said it is difficult to sell
25 these gas stations because the soil is contaminated. A new owner would have to assume the
26 responsibility for cleaning up the contamination. Mr. Murray said this is a nationwide dilemma.

27
28 Bob Storke, 1122 E. Wisconsin Avenue came forward and showed Council the new MPO bicycle
29 maps. He said the map displays trails on both the east and west sides of the County and will be
30 updated as new trails are identified and citizen feedback is provided. The Florida Department of
31 Transportation has committed to putting the maps in all of the welcome centers as well as in County
32 parks. Mr. Storke said he would provide additional maps and make them available in Town Hall and
33 the City Clerk's office.

34
35 Mayor Strickland questioned whether Mr. Murray and Mr. Reischmann had a comment regarding
36 the concerns expressed by citizens this evening. Both Mr. Murray and Mr. Reischmann responded
37 "no." Council Member Sherrill recalled that originally the cost for installing a traffic light on Harley
38 Strickland Blvd. was \$232,000, which included a fiber optic connection to program the lights in the
39 area to work together. Mr. Murray said the original price was \$135,000. Staff is hoping the price
40 will be substantially less due to the market condition. Mr. Murray assured Council he would bring
41 the matter back to Council once the new costs are determined.

42
43 **4. CONSENT AGENDA:** None at this time

44
45 **5. ORDINANCES – FIRST READING:**

46

1 **A. ORDINANCE NO. 388:** An ordinance of the City of Orange City, Florida, annexing the
2 James property into the corporate limits of the City of Orange City, Florida; said property
3 being generally located on the south side of West Fern Drive, approximately 750 feet east of
4 Pecan Drive, containing approximately 0.47 acres; in accordance with the voluntary
5 annexation provisions of Florida Statute 171.044; redefining the boundaries of the City of
6 Orange City by amending the appropriate sections of the code of ordinances; containing a
7 repealer provision, a severability clause and providing for an effective date.
8

9 Vice Mayor Allebach read the title of Ordinance No. 388 into the record.
10

11 **Council Member Laputka moved to adopt Ordinance No. 388 on first**
12 **reading, seconded by Council Member Sherrill.**
13

14 Jim Kerr, City Planner, came forward. Referring to a power point presentation, (a copy of which is
15 attached and becomes a permanent part of these minutes) he noted there are two voluntary annexations
16 before Council this evening. Pointing out West Fern Drive on a map, Mr. Kerr said that as directed, staff
17 is working towards annexing properties in that area. On April 28, this owner annexed property on West
18 Fern Drive and is now asking that additional property be annexed. He said the property is 1.5 acre, is
19 contiguous to the City limits and does not create an enclave. Staff recommends annexation.
20

21 **Motion passed by a 7/0 roll call vote of the Council.**
22

23 **B. ORDINANCE NO. 389:** An ordinance of the City of Orange City, Florida, annexing the
24 Gonzalez property into the corporate limits of the City of Orange City, Florida; said property
25 being generally located on the west side of South Sparkman Avenue, approximately 300 feet
26 north of West Gardenia Drive, containing approximately 1.5 acres; in accordance with the
27 voluntary annexation provisions of Florida Statute 171.044; redefining the boundaries of the
28 City of Orange City by amending the appropriate sections of the code of ordinances;
29 containing a repealer provision, a severability clause and providing for an effective date.
30

31 Vice Mayor Allebach read the title of Ordinance No. 389 into the record.
32

33 **Council Member Sherrill moved to adopt Ordinance No. 389 on first**
34 **reading, seconded by Council Member Laputka.**
35

36 Jim Kerr pointed out the location of the property on a power point presentation (a copy of which is
37 attached and becomes a permanent part of these minutes). He said it is contiguous and does not
38 create an enclave. Staff recommends Council approve this annexation. In response to a question
39 from Mayor Strickland, Mr. Kerr said the property is 1.5 acres.
40

41 Council Member Mahoney noted the 5th whereas in Ordinance No. 389 is dependent upon the
42 passage of Ordinance No. 388. Mr. Reischmann agreed he suggested adding a clause at the end of
43 Section 7 regarding an effective date.
44

45 **Mr. Reischmann stated a motion to direct Council to amend the**
46 **ordinance to add the following language: "This Ordinance shall take**
47 **effect upon this adoption by the City Council of the City of Orange**

1 **City and immediately after the legal effective date of annexation**
2 **pursuant to Ordinance No. 388.”**

3
4 **So moved by Council Member Mahoney, seconded by Council Member**
5 **Sherrill and passed by a unanimous 7/0 roll call vote of the Council.**

6
7 Mr. Reischmann explained this amendment clarifies that the annexation described in Ordinance 389
8 will not become effective until after the final adoption of annexation Ordinance 388 thereby
9 avoiding the creation of an enclave.

10
11 **The main motion as amended passed with a 7/0 roll call vote.**

12
13 **6. PUBLIC HEARING/ORDINANCES – SECOND & FINAL READING:**

- 14
15 **A. ORDINANCE NO. 357:** An Ordinance of the City of Orange City, Florida, adopting the
16 Evaluation and Appraisal Report for the Orange City Comprehensive Plan; stating the
17 intent of the Council to amend the Comprehensive Plan based upon recommendations
18 contained in the Report; approving the transmittal of the report to the Department of
19 Community Affairs in accordance with Section 163.3191, Florida Statutes; providing a
20 conflicts clause and severability clause and providing an effective date.

21
22 Vice Mayor Allebach read the title of Ordinance No. 357 into the record.

23
24 **Council Member Mahoney moved to adopt Ordinance No. 357 on**
25 **second and final reading, seconded by Council Member Rasch.**

26
27 Mr. Murray said the City Evaluation and Appraisal Report (EAR) is a State mandate which must be
28 reviewed every 7 years. Council considered the EAR at first reading last year. Revisions were made
29 and the document was transmitted to the State. There have been numerous conversations between
30 staff and the State. He said the State has accepted this final version.

31
32 Donald Sikorski, Planning Consultant came forward. He confirmed that the State responded with
33 their recommended revisions, which were incorporated into this document. The EAR must be
34 transmitted to the Florida Department of Community Affairs (DCA) and the State for their final
35 approval. Mr. Murray classified this as ministerial in nature, he stated it is a mandate, and this
36 document should complete the City's compliance. Mr. Sikorski noted that once DCA approves the
37 EAR, the City's Comp Plan must be updated to incorporate the revisions. He advised Council a
38 Comp Plan amendment might be coming forward soon.

39
40 Ms. Renner advised this agenda item requires a public hearing. She asked that anyone in the
41 audience, who would like to speak on this matter or be kept informed of the status of the notice of
42 intent to approve this amendment, provide contact information and they would be kept informed.

43
44 Mayor Strickland opened the public hearing by asking if anyone wanted to speak for or against the
45 proposed ordinance.
46

1 Ron Saylor 361 Dixson Street came forward and noted that the EAR contained information about
2 low-income housing. He said that he found it interesting that over 60% of people on social security
3 qualify for low-income housing and food stamps and that figure is expected to increase to 90% in
4 five years. Mr. Saylor stated, "...when you are looking at planning and stuff like that, and low
5 income, think about what you are looking at for yourself."
6

7 The mayor closed the public hearing.
8

9 **Motion passed by a 7/0 roll call vote of the Council.**
10

11 **7. RESOLUTIONS:**
12

13 **A. RESOLUTION NO. 544-09:** A resolution of the City Council of the City of Orange
14 City, Volusia County, Florida, certifying that the Southwest Volusia Habitat For
15 Humanity program for the construction of housing for very-low-income persons is
16 consistent with the Comprehensive Plan of the City of Orange City and all local plans
17 and regulations; and providing for an effective date.
18

19 Vice Mayor Allebach read the title of Resolution No. 544-09 into the record.
20

21 **Council Member Mahoney moved to approve Resolution No. 544-09,**
22 **seconded by Council Member Laputka.**
23

24 Mayor Strickland questioned whether this resolution is consistent with the Comp Plan. Mr. Murray
25 responded in the affirmative. Mayor Strickland noted that was not clear with the way the resolution
26 is written. Mr. Murray said the City must certify that the Habitat program meets the requirements of
27 the City's Comp Plan for it to be eligible for grant funding.
28

29 Vice Mayor Allebach spoke in support of the resolution noting some communities have building
30 requirements that would prevent Habitat from building homes. Mr. Murray pointed out the City
31 modified its code to allow low-income funded housing to be built several years ago.
32

33 **Motion passed by a 7/0 roll call vote of the Council.**
34

35 **8. DISCUSSION AND ACTION:**
36

37 **A. Bid Award – 17-92 Landscaping Project, Phase II**
38

39 Paul Johnson, Public Works Director, came forward and recalled that this project began several years
40 ago. He said that Phase I was completed about a year and a half ago. Phase II has been designed and the
41 design was approved by the Department of Transportation (DOT). DOT is providing funding for the
42 project. Mr. Johnson advised that the project was put out for bid, but only one response was received.
43 Mayor Strickland commented that he spoke to several small companies and that they indicated they
44 could not handle a project of this size. Mr. Johnson noted that the original bid of \$214,500 was "way
45 over" the budgeted amount. Mr. Johnson expressed his confidence that negotiations could bring the
46 price to the budgeted amount or slightly lower. Mr. Johnson said that he is requesting authorization to

1 proceed with negotiations with Florida Green to reduce the cost and to enter into an agreement for the
2 work on Phase II of the 17-91 landscape plan.

3
4 Council Member Laputka asked how the cost of the project could be reduced. Chris Keller, Miller Legg,
5 came forward and stated that they had made an error on the last bid tabulation form after making changes
6 requested by DOT. Mr. Keller said that after making the change, along with a reduction in the
7 contingency, the bid is in the acceptable range.

8
9 Mayor Strickland questioned whether drought-tolerant plants would be used. Mr. Keller responded,
10 “absolutely.” He noted that there is no irrigation on the site. Mayor Strickland noted that “bottled
11 brush” plants were on the list and he advised that they freeze. Mr. Keller acknowledged that it is a
12 “harsh environment” for the plants and said that this had been considered in the plant selection. Mayor
13 Strickland further noted that the project options are limited because there is no curbing there. Mr. Keller
14 concurred and said that that meant that the setback and size of the plants are restricted.

15
16 Mayor Strickland said that he received a number of comments from the businesses along U.S. 17-92. He
17 noted that they would prefer that the plant locations are compact rather than spreading them out. Mayor
18 Strickland questioned whether this project would reduce the frequency of grass cutting required. Mr.
19 Keller said that it would. He said the DOT requires a plan for maintaining the rights of way after the
20 planting. The need to mow the grass will be reduced to 2 to 3 times per year once a wildflower mix has
21 been planted and allowed to take root.

22
23 Council Member Mahoney asked whether the lime rock removal and replacement with top soil was the
24 reason only one company responded to the bid. Mr. Keller felt it was due to the size of the project. He
25 said this is a small project for the large contractor and too big for the smaller contractor. Mr. Murray
26 noted that lime rock removal is a standard contingency on any DOT contract. Mr. Keller concurred. He
27 said he tested the area and found it was not lime rock. Mr. Johnson commented the City had entered into
28 a small landscaping partnership with Abell carpeting. He said he spoke with Mr. Abell today, and he is
29 very pleased with the outcome of the project.

30
31 **Vice Mayor Allebach moved that Council authorize the City Manager to**
32 **negotiate with Florida Green for the recommended contract price of**
33 **\$130,798 and for the City Manger to enter into an agreement with Florida**
34 **Green for a not to exceed contract of \$130,798 for Phase Two of the 17-92**
35 **landscaping project as presented, seconded by Council Member Laputka.**
36

37 Council Member Sherrill questioned if it were possible after a few years to go back to the DOT and ask
38 for money for curbing the landscaping. He expressed his belief that US 17-92 should have curbs. Mr.
39 Johnson said there is a chance that at some point the City could approach the State and ask for funding
40 for curbs, however, there are serious funding issues with all of the State and local agencies at this time.

41
42 Mayor Strickland remarked that it was very helpful for Mr. Johnson to meet with the business owners
43 along U.S. 17-92 and share the plans for this project. He stated, “I think it really helped the process, so
44 that was good.”

45
46 **Motion passed by a 7/0 roll call vote of the Council.**
47

48 **B. Community Development Block Grant 2009 Submittal**

1 Linda Snyder, Financial Services Supervisor came forward and said that the approval of the
2 Community Development Block Grant (CDBG) submittal is an annual event. She noted that
3 requirements have been met and it is projected the City will receive \$62,400 for FY 09/10. Ms.
4 Snyder said staff is recommending expending these funds to resurface portions of West Central and
5 N. Sparkman Avenues.

6
7 Council Member Laputka commented that he drove down the streets suggested for resurfacing and
8 felt that was a good idea.

9
10 Mayor Strickland asked if the funding would be adequate to do what is proposed. Mr. Murray said
11 that it was. He explained money tentatively designated for the Carpenter Avenue water/sewer line
12 project was reallocated for road resurfacing when revenue from impact fees began to dwindle. He
13 noted that impact fees are usually used for these types of projects. The CDBG money from last year
14 is being used to resurface some of the roads and staff proposes to use next year's CDBG contribution
15 in the same manner.

16
17 Mayor Strickland asked Ms. Snyder to briefly describe the CDBG program. Ms. Snyder said the
18 CDBG is a federal grant that is provided for services in low income areas. These areas are identified
19 by maps, which stipulate where the funds can be spent. The City is a sub-recipient of the funding
20 and the County requests that City does not do anything in housing because the County gets a portion
21 of CDBG funds for housing projects. Historically the City has spent CDBG funds for street
22 resurfacing, parks improvements and sidewalks. Ms. Snyder noted the maps are developed based on
23 peoples response to the census. Improvements to Veterans Memorial Park, such as the trails were
24 partially done with CDBG funding and now that area is no longer eligible for CDBG funds. It takes
25 three years after the census for a CDBG map to come out. The next time the maps will be published
26 will be 2013. Ms. Snyder said the City hosts a meeting every year to seek citizen input on how the
27 funds should be used. Mayor Strickland noted these meeting are usually not well attended and
28 suggested that anybody who is interested in participating to watch for the notice next year.

29
30 Vice Mayor Allebach questioned why Veteran's Memorial Park is no longer eligible for CDBG
31 funding. Ms. Snyder said the citizens did not respond to the census. Vice Mayor Allebach clarified
32 that it was due to a failure of citizens to respond to the census that caused the City to not be able to
33 enhance that area with CDBG funds. Ms. Snyder said was correct. She explained it does not affect
34 the dollar amount just that neighborhood's eligibility. Vice Mayor Allebach noted that if the City
35 could get more people to respond to the 2010 census the City may be able to enhance other areas of
36 the community. Mr. Murray noted a presentation on the census is tentatively scheduled for June.
37 Ms. Snyder added that for the first time this year, CDBG has additional funds available and the staff
38 have submitted an additional \$150,000 to put into the sewer lines.

39

40 **Vice Mayor Allebach moved that the City Council approve for**
41 **2009/2010 Annual Plan and Five Year CDBG budget projections,**
42 **second by Council Member Sherrill, passed by a unanimous 7/0 voice**
43 **vote of Council.**

44

45 **9. NEW BUSINESS:**

1 Council Member Laputka suggested that a citizen resource committee be formed to focus on water
2 issues and possible solutions. Mayor Strickland noted he attended similar meetings about the Blue
3 Springs Basin and the attendees were mainly bureaucrats and not a lot of citizen participation.
4 However, in other areas, citizen resource groups have organized and pushed for legislation. He
5 remarked the issue of water and conservation is an important one. Council Member Rasch
6 concurred and suggested that Council appoint a citizens advisory committee. Council Member
7 Laputka restated his request that this matter be added as an agenda item. Vice Mayor Allebach
8 agreed, he spoke in favor of forming a citizen resource committee. Mr. Murray advised that it is
9 extremely difficult to get people involved in citizen resource committees. He said that he has
10 watched the activities of such a group in Wakulla County. The group has control of 50 square miles
11 of private property along Wakulla Springs and dictates what the owner can and cannot do on his
12 property. He stated, "It bears very close watching."
13

14 Mayor Strickland requested that the topic of SB2080 be added to the next agenda. He said he
15 understands that the bill had not gone to the Governor's desk for signature. The County has asked
16 municipalities to consider adopting a resolution in objection to this bill, but the County has not yet
17 prepared a sample resolution. Mayor Strickland said district representative Andy Kelly, has
18 requested that everyone notify the Governor of our concerns about SB2080. Whether the Governor
19 has already acted on this bill, it is important for Council to discuss what to do about the matter if it
20 does pass.
21

22 In response to a question from Mayor Strickland, Mr. Reischmann said limited information is
23 available, however, there were some late additions made to SB2080 that many of the people who
24 voted for the bill were not aware of. The most controversial change to the bill was the additional
25 rights and responsibilities for permitting for the executive directors of the Saint John's River Water
26 Management District (SJRWMD), in addition to the board itself. For example the controversial
27 decision that was made recently with regard to Yankee Lake. That was at a public hearing and it
28 was done after a substantial amount of testimony, arguments and public input and a SJRWMD board
29 ultimately made a decision to issue that permit to Seminole County.
30

31 Mr. Reischmann stated there are efforts to take away some of the responsibilities from the boards
32 making these types of decisions. Another controversial issue is the growth management bill that has
33 to do with transportation concurrency and the easing of concurrency obligations to urban areas. He
34 expressed his belief that the Governor has attorneys looking at these issues closely to determine the
35 unintended consequences of this legislation. A lengthy discussion ensued. Mr. Reischmann
36 reminded Council that Orange City and some other local jurisdictions in south Volusia have retained
37 the services of an engineer to review the science the SJRWMD uses to determine such things as a
38 municipality's minimum flow requirements to the consumptive use permit. He remarked it would be
39 very interesting to see how that turns out.
40

41 Council Member Rasch stated the whole matter is "scary". He expressed his concerns that these
42 changes are being presented in a positive light, that it would be a streamlining move to take the
43 power away from the SJRWMD itself and give it to one person, the director of the authority. While
44 this proposed change would reduce the approval process by 45 days, it also puts the decision in the
45 hands of one man. He stated, "I don't want that."
46

1 **10. REPORTS**

2
3 **A. City Manager**

4
5 Council Member Rash noted the City had assumed responsibility for animal control a short time ago. He said he noticed “neat little things on the web site” and asked for an update. Mr. Murray responded the animal control program would finish the year, well within budget. Thus far, the City has captured and transferred about 38 cats, much less than anticipated. The contract with the SPCA is working well. Staff is doing a great job with the captures. Supplies and equipment were purchased using impact fees, including an animal control truck. Mr. Murray advised that Sgt. Lariscy is researching and will bring forward a proposed spay and neuter program by midsummer. Mayor Strickland commented that at a recent meeting with other Mayors from the County the issue with putting the animals on our web site was discussed. He said everyone thought it was a good idea and planned to consider it for their municipalities. Mr. Murray told Council the animals are photographed on the scene and the pictures are uploaded straight to the web site, within 5 minutes of the capture. Mayor Strickland remarked that is very impressive.

17
18 Mr. Murray gave an update on the problems caused by the excess rains this past week. He said Industrial Drive was flooded for about 5 hours noting the water has receded. Staff contacted the State and asked them to pump Mill Lake. There was some flooding in the Pooser Park area and the runoff is being pumped into Mill Lake. The runoff level is down and should be under control within the next two days. He noted the pumping is only being done during business hours. He stated that while it is not a City owned pond, Orange City businesses will be affected when the area floods.

24
25 Mr. Murray reminded everybody there is a meeting with SJRWMD tomorrow at 4:00 p.m. in the Administrative Building in DeLand. He said everyone is welcome to attend but only the Mayors and Managers will be allowed to provide input. The County noticed the meeting to cover the sunshine law so all Council Members are more than welcome to attend.

29
30 Council Member Laptuka commented about the pump for Mill Lake, he spoke in support of the action. He thought it was important because this neighborhood flooded last year during Tropical Storm Faye. That it was done early on is a comfort to the residents of the area. Mr. Murray remarked that if the pond were owned by the City the matter would have been addressed sooner. He said staff did a great job throughout the City, very quickly and professionally.

35
36 Council Member Mahoney questioned the need to provide notice of the meeting with the SJRWMD if only the Mayors and City Managers are allowed to speak. Mr. Murray noted the City Attorney advised against a joint ad with the other governments and the City placed its own. Mr. Reischmann said it is a public meeting so that Council Members who attend could speak to each other during the meeting and be protected under Florida Statute 286. Council Member Mahoney clarified that he had concerns with how it may look to a citizen with Council Members sitting next to each other and not being able to hear what the discussions were. Mr. Reischmann responded that like any other meeting, Council has the ability to sit next to each other but do not have the ability to speak to each other about matters that are going to come before this Council as a body. Council Member Mahoney stated, “That’s my point, what does the notification do?” Mr. Reischmann stated his understanding this is a workshop meeting scheduled by the Coalition of Governments and there will be limited participation from the public. He asked the City Clerk how was the meeting advertised. The City

1 Clerk responded it was noticed as a joint meeting of the governments of Volusia County, Orange
2 City, Deltona and DeLand. Mr. Reischmann said that if it was noticed as a meeting of the City
3 Council the Council Members have the right to talk to each other. If not, Council Members may not
4 want to get into a dialogue with each other. Vice Mayor Allebach expressed his opinion Council
5 was advised to notice the meeting because Council Members would be near each other and
6 notification provides protection against allegations the Sunshine laws were violated. Council
7 Member Rasch agreed noting the problem with the Sunshine law is that it is very easy to allege.

8
9 Mr. Murray said this meeting is the result of a letter that the governments of Volusia County crafted
10 detailing concerns about the SJRWMD. The dialogue will be contained to those issues only and
11 there will be no free-flowing discussion.

12
13 Vice Mayor Allebach questioned whether the City has any recourse against the engineers who
14 worked on the industrial Drive drainage remedy. He expressed his frustration that the City has spent
15 \$400,000 to correct the drainage problems on the advice of the engineers. He suggested that those
16 engineers should have some financial accountability because their plan did not work. Mr. Murray
17 stated, "We are having that conversation" however, right now our concern is with the water. He
18 stated his opinion that the drainage system should have handled the water in the steady manner in
19 which it fell. He stated the matter would be addressed.

20
21 **B. Mayor/City Council**

22
23 Council Member Sherrill displayed a sign from WAV regarding water conservation. He suggested that
24 the City put the signs at the entrances to the City. He noted WAV would provided two signs for free.

25
26 Vice Mayor Allebach said that MPO plans for stimulus funds are in a state of flux. He said the biggest
27 success with the MPO is the bicycle trail maps that were recently published and that Mr. Storke
28 presented this evening.

29
30 Mayor Strickland reported a meeting with the SJRWMD has been scheduled. He said he was impressed
31 with the work the joint committee from the Utilities of the Volusia County, Deltona, DeLand and Orange
32 City did. The meeting will be between elected officials, the governing board of the SJRWMD and the
33 County Manager. The dialogue will be about the municipalities' concerns with the SJRWMD. If the
34 response to this meeting is not satisfactory, the elected officials plan to bring the matter to their
35 respective government bodies for additional action. Mayor Strickland said it is gratifying to see the
36 governments working together and that it was not just Orange City having to do this. The SJRWMD has
37 forced unfunded mandates on the four governments involved and have not considered the municipalities
38 on the west side of the County.

39
40 **C. City Clerk**

41
42 Referring to the noticed meeting discussed earlier, Ms. Renner said the notice was advertised as a joint
43 workshop between the City Council of Orange City, the commissions of the other cities and the County
44 Council. Ms. Renner reminded Council there is a citizen budget workshop scheduled for Thursday. She
45 said the agendas were distributed this evening to the Council. In response to a question from Mayor
46 Strickland Ms. Renner said the ordinance and district maps would be ready for first reading at the first
47 Council meeting in June.

48

1 **D. City Attorney**
2

3 Mr. Reischmann advised that as directed, a meeting took place with staff and representatives from GEL
4 Corp. to address GEL's issues with the proposed developer's agreement. As a result, Allan Watts the
5 attorney from Cobb & Coles representing the City in this matter has asked that an Executive Session of
6 the Council be scheduled. Mr. Reischmann said that pursuant to FS 286.011 an Executive Session is a
7 closed meeting. He detailed the process and asked Council to consider the matter.
8

9 **It was the consensus of the City Council that the City Attorney and City**
10 **Clerk schedule an Executive Session in accordance with FS 286.011,**
11 **regarding the pending litigation with GEL Corp.**
12

13 Council Member Mahoney questioned whether there is an issue with the effective date of the water rate
14 increase resolution that recently passed. Mr. Reischmann said he had not researched the matter however
15 according to Resolution 540-09, which was adopted in April, a water \$4.00 fee per account plus 25% of
16 the water usage was to be assessed. Council Member Mahoney clarified that he was asking when the
17 new rate increase was to be implemented. Mr. Reischmann stated this is not a rate increase. Council
18 Member Rasch said that he forwarded Mr. Polgar and Mr. Allebach's emails regarding the matter to Mr.
19 Reischmann today and he did not have an opportunity to review them. He suggested that Mr.
20 Reischmann be allowed to review that correspondence so that he could provide an informed opinion.
21 Council Member Mahoney agreed and said that he would email Mr. Reischmann the emails that he
22 received.
23

24 Mr. Reischmann said that the permit issued to Seminole County to operate its Yankee Lake Project as an
25 alternative water source may be challenged by some of the parties that may or may not have standing.
26 Council Member Rasch noted that he saw where a lawsuit had already been filed. Mr. Reischmann
27 stated his opinion the matter would be discussed at tomorrow's meeting with the SJRWMD.
28

29 *Mayor Strickland recessed the meeting at 8:43 p.m., reconvening at 8:48 p.m.*
30

31 Mayor Strickland noted Council Member Mahoney had a question before the break. He asked
32 Council Member Mahoney if he wished to speak at this time. Council Member Mahoney made the
33 following statement, "...It would have a better or more equitable appearance if in the future when
34 the City implements rate increases, it does so with the consumption period beginning after Council
35 action."
36

37 **11. APPROVAL OF MINTUES**

April 28, 2009 Regular Meeting

38
39 Vice Mayor Allebach moved to approve the minutes of the April 28, 2009 Regular Council Meeting,
40 seconded by Council Member Laputka and passed by a unanimous 7/0 voice vote of the Council.
41

42 May 12, 2009 Workshop Meeting
43

44 Vice Mayor Allebach moved to approve the minutes of the May 12, 2009 Workshop Meeting,
45 seconded by Council Member Mahoney and passed by a unanimous 7/0 voice vote of the Council.
46

47 May 13, 2009 Workshop Meeting
48

1 Vice Mayor Allebach moved to approve the minutes of the May 13, 2009 Workshop Meeting,
2 seconded by Council Member Mahoney and passed by a unanimous 7/0 voice vote of the Council.
3

4 **12. COUNCIL COMMENTS:**
5

6 Vice Mayor Allebach noted that staff responded quickly to the recent torrential rains.
7

8 Council Member Sherrill said that he received a call from the Utility about his over consumption of
9 water. He said he used a lot of water this month because he resodded his lawn. Council Member
10 Sherrill said he was surprised but that he appreciated the call. He stated, "I think that's great."
11

12 Council Member Laputka reminded citizens to attend the citizen budget workshop, Thursday, May
13 28, 7:00 p.m. in Council Chambers.
14

15 Council Member Rasch noted that the Crown Center waters its lawns during the day "consistently."
16 He asked if that is something that should be reported. Mr. Murray responded that staff has already
17 contacted the County regarding the matter. He said the City plans to adopt a conservation ordinance
18 once the County has one in place.
19

20 Vice Mayor Allebach noted that he would not be attending the meeting on Thursday due to a conflict
21 with a Volusia League of Cities meeting.
22

23 Council Member Mahoney said that he too might not be able to attend the meeting on Thursday.
24

25 **13. ADJOURN:**
26

27 There being no further business, Mayor Strickland adjourned the meeting at 8:54 p.m.
28

29 **RESPECTFULLY SUBMITTED:**
30

APPROVED ON:
31

32
33
34 Gloria Williams, CMC

35 Deputy City Clerk

June 09, 2009