

1 **MINUTES OF THE SPECIAL MEETING** of the City Council of the City of Orange City, Florida, held
2 on Tuesday, May 31, 2011 at 4:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

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4 **CALL TO ORDER**

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6 The meeting was called to order at 4:00 p.m. by Mayor Strickland and roll call was taken.

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8 **ROLL CALL**

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10 **PRESENT:** Mayor Harley Strickland; Council Members Jeff Allebach, Tom Laputka, Tom Abraham,
11 Anthony J. Pupello, Gary A. Blair; City Attorney Bill Reischmann; City Manager Jamie Croteau; Deputy
12 City Clerk Gloria Thomas

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14 **ABSENT:** Vice Mayor O. William (Bill) Crippen

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16 **1. Discussion of Petition to the USEPA regarding Numeric Nutrient Requirements**

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18 Ms. Croteau advised the item under consideration is the City's petition to the United States Environmental
19 Protection Agency (USEPA) Numeric Nutrient Requirements. She distributed copies of the petition
20 noting that it was revised to include a request that the USEPA respond to the Florida Department of
21 Environmental Protection (FDEP).

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23 Mr. Reischmann recalled this matter was discussed at the last City Council Meeting and as a precaution,
24 Council asked staff to make sure the City is taking the appropriate action. He said he investigated and
25 received confirmation from the DEP that based upon the Federal Code and the case law, this petition is in
26 the nature of a formal request to the EPA to reconsider a decision made in 2009. It will not create an
27 adversarial or administrative proceeding. The intent is to get the EPA to respond to the DEP's petition
28 sooner rather than later. The DEP feels that additional pressure from affected local governments would
29 cause the EPA to respond more quickly. Mr. Reischmann said that over a year ago Council submitted a
30 similar resolution before the impact of the ruling was known. Now that the circumstances have changed, a
31 lot more is known about the consequences of this determination. Mr. Reischmann stated his opinion that
32 this action will not result in litigation.

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34 Council Member Blair commented that Mr. Reischmann did a good job researching the matter. He stated,
35 "I think that you are being prudent...I just want to thank you for your work."

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37 Council Member Laputka agreed. He asked whether the EPA had done anything with regard to this
38 mandate. Mr. Reischmann said there are ongoing meetings between the EPA and FDEP but no decision
39 has been made. The FDEP still needs help. Several other local governments are considering supporting
40 this effort. Mr. Reischmann said the FDEP does not know if resolutions or petitions will make a
41 difference. The determination was made by a prior administration and the FDEP is asking for
42 reconsideration from a new administration. FDEP is hopeful that if enough local governments get
43 involved it could cause the DEP to reverse the mandate. Council Member Laputka said he attended
44 hearings when the FDEP was seeking funding to implement this mandate and the funding was denied.

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46 Council Member Pupello said he received the email from Mr. Reischmann. He thanked him for his
47 timeliness in getting the answers needed to make an informed decision. Council Member Allebach spoke
48 in support of this action. He said it is a problem for the City and economic recovery in the state.

1 Council Member Abraham said he did research on this matter. He asked why Florida is being forced to
 2 support the FDEP. Is this because of unfunded mandates or is this a financial problem for some of the
 3 “big developers and industrial giants?” Ms. Croteau said it is the unfunded mandate that is the problem.
 4 She recalled that staff made a presentation to Council last year regarding the nutrient standards and
 5 warned that it would be costly to implement. The costs would affect everybody, not just developers, but
 6 local governments and anyone who produces stormwater, builds a road or has any kind of runoff that must
 7 be treated. Ultimately it is going to be the citizens that will bear the cost by increased utility bills. That is
 8 why the City sent a resolution to the EPA last year. Ms. Croteau said Florida is the only state in the
 9 United States that has this mandate. She stated, “So, we are being held to a standard that is different from
 10 the other states.”

11
 12 Council Member Abraham said other states, have complied with the EPA request and findings. Arizona
 13 has stringent standards but they worked with the EPA who understood their position and the scientific
 14 facts. Council Member Abraham asked Mr. Reischmann what is his understanding of the consent decree.
 15 Mr. Reischmann responded the consent decree is the result of a lawsuit seeking to force the EPA and the
 16 State of Florida to comply with greater restrictions for storm and waste water treatment. He said if the
 17 EPA agrees to reconsider its findings the consent decree would be amended. Mr. Reischmann said he
 18 does not know what the consequences would be if the EPA were to comply with the FDEP’s request. At
 19 the very least, the State of Florida, including local governments, and citizens would have the opportunity
 20 to present its position that the State is doing all that it needs to do and is in full compliance with federal
 21 environmental laws. He said if the EPA does not rescind its determination it will be costly for everyone.
 22 The City pays the County for its waste water treatment and if this mandate goes through, it will cost the
 23 County more to treat the water and that cost will be passed on to the consumer. Some experts have
 24 predicted it will triple utility bills. Mr. Reischmann said he discussed this with the attorney for the FDEP
 25 and they are aware of the decree but feel it is still in everyone’s best interest for the EPA to rescind its
 26 determination.

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 28 Council Member Abraham says he understands everyone’s concerns about stopping pollution in the
 29 waters, however he said public health issues need to be considered as well. He said he could not support a
 30 resolution or petition at this time. He said he wants more scientific information.

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 32 **Council Member Allebach moved that the City Council approve the**
 33 **petition to the United States Environmental Protection Agency**
 34 **supporting Florida Department of Environmental Protection’s position**
 35 **and authorize the Mayor to execute a cover letter to send along with the**
 36 **petition to the EPA, as presented, seconded by Council Member Blair,**
 37 **and passed by a 5/1 roll call vote of the Council with Council Member**
 38 **Abraham voting “no.”**

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 41 There being no further business to discuss, Mayor Strickland adjourned the meeting.

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 44 RESPECTFULLY SUBMITTED: APPROVED:
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 46 _____ June 14, 2011
 47 Gloria Thomas, CMC Deputy City Clerk Date