MINUTES OF THE REGULAR MEETING of the City Council of the City of Orange City, Florida, held on Tuesday, July 25, 2017 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

### CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Mayor Blair and roll call was taken.

### **ROLL CALL**

PRESENT: Mayor Gary A. Blair; Vice Mayor O. William (Bill) Crippen; Council Members: Bill O'Connor, Jeff Allebach, Jim Mahoney, Anthony J. Pupello, Evelyn Robinson; City Attorney Bill Reischmann; City Manager Dale Arrington; City Clerk Gloria Thomas.

### INVOCATION/PLEDGE OF ALLEGIANCE

The Invocation was given by Vice Mayor Crippen, followed by the Pledge of Allegiance.

**1. ABSENCES:** None at this time

### 2. PRESENTATIONS/PROCLAMATIONS:

A. Recognition of fireworks sponsors

The Council thanked the sponsors that contributed to the Fourth of July fireworks display. Mayor Blair announced that the Gold sponsors were WCA Waste Corporation. The Silver sponsors were, Duke Energy, Orange City Racing and Card Club, TD Bank and Florida Hospital Fish Memorial. The Bronze sponsors were West Volusia Shed Company. The Community sponsors were Texas Roadhouse, Ace Hardware, Launch Credit Union, Triple D Equipment and Family Fun Town. The Council presented plagues to those that were present.

B. Curb appeal winners - 2<sup>nd</sup> quarter

Becky Mendez, Development Services Director, came forward and announced the 2<sup>nd</sup> Quarter Curb Appeal winners. She announced the commercial winner as Volusia Woods Animal Clinic and the residential winner as Lorie Majchrzak, 417 Howard Ave. The winners came forward to accept the awards.

### C. River of Lakes Heritage Corridor

Cindy Sullivan, Chairman of the River of Lakes Heritage Corridor, provided Council with a brochure of the Bartram trail (a copy of which is attached and becomes a permanent part of these minutes.) Ms. Sullivan explained that the Corridor is an FDOT program in Florida that provides a segment of unique roadway to be dedicated. She stated that the purpose was to protect Blue Springs and the St. John's River. Ms. Sullivan requested a \$500.00 donation from the City to help continue to provide brochures to welcome centers around the state.

 Vice Mayor Crippen added that the original grant received from FDOT was used to fund the marketing needs for the Corridor. He stated that the Corridor has an ongoing yearly commitment of \$1000.00 from Farmton.

D. Proclamation System Information Administrator Day

Mayor Blair read a proclamation into the record proclaiming July 28th as System Administrator Appreciation Day and encouraged all citizens and employees of Orange City to increase their understanding and awareness of how important our "IT" guy, Matt Place, is to the functions in and around the City.

### 3. CITIZEN COMMENTS:

See Agenda Item 6A.

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

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

6. PUBLIC HEARINGS/SECOND READING:

A. **Ordinance No. 578** An Ordinance of The City Council of The City of Orange City, Florida extending the temporary moratorium within the jurisdictional limits of the City of Orange City relating to facilities dispensing medical marijuana; readopting findings of fact; prohibiting medical marijuana dispensing facilities during the extended moratorium period; directing staff to develop proposed land Development Code provisions and other recommendations regarding such dispensing facilities; providing for penalties, severability, conflicts, and an effective date.

Mr. Reischmann read the title of Ordinance No. 578 into the record.

Ms. Mendez came forward and noted that this was the second and final reading of Ordinance No. 578 and there were no changes since the first reading. She provided a PowerPoint presentation that described information about medical marijuana dispensaries (a copy of which is attached and becomes a permanent part of these minutes.) She stated that the temporary moratorium established by Ordinance No. 568, which applies to all aspects of medical marijuana treatment centers (MMTC), is due to expire on July 23, 2017. Ordinance No. 578 will extend the moratorium for an additional 180 days, but it is imposed only upon permit applications for medical marijuana dispensing facilities. No applications for such permits shall be accepted or processed during the extended moratorium period.

Ms. Mendez advised that the Planning Commission discussed the new State law at their July 5, 2017 meeting and recommended that Council define a pharmacy use and assign specific zoning classifications. In addition, she suggested that Council give direction to staff as to how to proceed. The options are as follows: 1) adopt a resolution specifically banning MMTCs; 2) take no action and allow MMTCs as retail sales and service use; or 3) define a pharmacy use. Ms. Mendez stated that staff recommends Council adopt Ordinance No. 578 at second reading to extend the moratorium for 180 days and provide guidance to staff regarding their choice for what option to proceed with.

A lengthy conversation ensued between Ms. Mendez and Council concerning extending the moratorium until there is more clarifying information from the State, zoning classifications for pharmacies in the City, how to define a pharmacy use and how that definition will impact future non MMTC dispensing pharmacies.

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## Council Member Mahoney moved to adopt Ordinance No. 578 at second and final reading, seconded by Council Member O'Connor.

Mayor Blair opened the public hearing by asking if anyone wanted to speak for or against the proposed ordinance.

Ann Russo, 419 N. Virginia Ave. Deland, came forward and noted that her father passed away from cancer and requested that Council diminish the ban on the medical marijuana moratorium.

Paul Stanton, 2255 East Florence Avenue, came forward and also requested that Council diminish the ban on the medical marijuana moratorium.

Lea Bartos, 2831 Kumquat Dr., came forward and noted that her father passed away from cancer and her brother recently died from a Fentanyl overdose. She requested that Council does not adopt the ban on the medical marijuana moratorium.

Mayor Blair closed the public hearing

# Motion passed by a 5/2 roll call vote of the City Council with Council Member Allebach and Vice Mayor Crippen voting "no".

A conversation ensued between council members discussing the three different options.

Ms. Arrington noted that option 1 is null because the moratorium has been extended and Council does not wish to ban MMTC's. She asked Council to raise their hands in support of option 2 take no action allowing medical marijuana dispensaries as retail sales and services, four hands were raised. Then again for option 3 developing a text amendment defining a pharmacy, three hands were raised. Ms. Arrington recommended moving forward with option 3.

#### 7. **RESOLUTIONS:**

 A. **Resolution No. 866-17** A Resolution of the City of Orange City, Florida, relating to the collection and disposal of solid waste in the incorporated area of Orange City, Florida; establishing the estimated assessment rate for solid waste service assessments against assessed property located within the incorporated area of Orange City, Florida, for the fiscal year beginning October 1, 2017; directing the preparation of an updated assessment roll; authorizing a public hearing and directing the provision of notice thereof; and providing an effective date.

Mr. Reischmann read the title of Resolution No. 866-17 into the record.

Council Member Allebach moved to adopt Resolution No. 866-17, seconded by Vice Mayor Crippen.

- 1 Christine Davis, Finance Director, provided a detailed PowerPoint presentation (a copy of which is
- 2 attached and becomes a permanent part of these minutes.) Ms. Davis advised that adopting Resolution
- 3 No. 866-17 will set the preliminary rate for solid waste service assessment for the 2017 tax bill. She
- 4 recalled that in 2015 the assessment was \$172.20 annually or \$14.35 a month however it was lowered to
- 5 \$167.52 or \$13.96 in 2016 when an exclusive solid waste contract was awarded to WCA.
- 6 Ms. Davis advised that the 2017 preliminary assessment roll is the same as last year. She stated this is
- 7 the 11<sup>th</sup> year the City Council is enacting this assessment. Staff recommends that the City Council adopt
- 8 Resolution No. 866-17.
- 9 Mayor Blair opened the public hearing by asking if anyone wanted to speak for or against the proposed ordinance. No one appeared Mayor closed the public hearing.

## Motion passed by a 7/0 roll call vote of the City Council.

B. **Resolution No. 867-17** A Resolution of the City of Orange City, Florida, relating to the provision of stormwater management services; estimating the cost of stormwater management services provided by the City; establishing the method of charging the cost of stormwater management services against the real property that will be benefited and served thereby; directing the assessment coordinator to prepare or direct the preparation of an updated stormwater service assessment roll based upon the methodology set forth herein; establishing a public hearing for the proposed stormwater service assessments and directing the provision of notice in connection therewith; providing for severability; and providing an effective date.

Mr. Reischmann read the title of Resolution No. 867-17 into the record.

Council Member Mahoney moved to adopt Resolution No. 867-17, seconded by Vice Mayor Crippen.

Ms. Davis stated that Resolution No. 867-17 will serve as the preliminary stormwater assessment for tax year 2017. The stormwater assessment was enacted in 2015. The equivalent benefit unit (EBU) was \$11.61 per EBU and the tax roll was not to exceed \$581,707. In 2016 there was an automatic 4% increase which increased the rate to \$12.07 per EBU and the tax roll was not-to-exceed \$610,000.

Ms. Davis advised that the proposed resolution also includes an automatic escalator of 4% built in bringing the EBU to \$12.55 and a tax roll not-to-exceed \$610,000. She suggested the reason that the not-to-exceed amount has not changed is because there has been very little change in the amount of impervious areas. She concluded by stating that staff recommends the City Council approve Resolution No. 867-17.

Council Member O'Connor commented that he spoke against this before he was elected. He asked why there are built in automatic increases. Ms. Davis responded to cover the cost associated with operating the assessment. The 4% increases were recommended by the consultant and will occur every year. A study should be done no less than every 5 years to reevaluate and capture what has occurred.

Council Member Pupello questioned why the not-to-exceed amount has not increased from last year. He suggested there was a problem with the math. Ms. Davis explained the not-to-exceed number is based

on the amount of imperious surfaces. The fee that Council is approving is the \$12.55 per EBU for 2017. The not-to-exceed amount is mandated by law. Council Member Pupello requested that the actual cost of the assessment is included in future presentations in addition to or instead of the not-to-exceed amount.

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Council Member Mahoney observed that in Section 4 of the Resolution it states that the not-to-exceed amount is \$643,500 he questioned which was correct. Ms. Davis noted the amount in the resolution is correct, she stated there was an error in the presentation. The ceiling amount is \$643,500 and the rate is fixed at \$12.55 per EBU. Mr. Reichmann agreed.

Vice Mayor Crippen and Council Member Allebach spoke in support of this action.

### Motion passed by a 7/0 roll call vote of the City Council.

C. **Resolution No. 868-17** A Resolution of the City of Orange City, Florida, relating to the provision of street lighting services, facilities, and programs throughout the shadow ridge street lighting assessment area; estimating the cost of street lighting services, facilities, and programs to be assessed for the fiscal year commencing October 1, 2017; determining that certain real property will be specially benefitted thereby; establishing the method of assessing the street lighting service cost against the real property that will be specially benefitted thereby; directing the city manager to prepare or direct the preparation of a preliminary assessment roll based upon the methodology set forth herein; establishing a public hearing to consider imposition of the proposed street lighting assessments and the method of their collection and directing the provision of notice in connection therewith; providing for severability; and providing an effective date.

Mr. Reischmann read the title of Resolution No. 868-17 into the record.

## Council Member O'Connor moved to adopt Resolution No. 868-17, seconded by Vice Mayor Crippen.

Ms. Davis advised that in April the City received a petition from Shadow Ridge Phase II subdivision property owners requesting a special street lighting district. Along with the petition a \$6,500 fee for implementation was provided. Resolution No. 868-17 is the Initial Rate Resolution which establishes the "maximum" assessment rate for tax year 2017. The revenue generated from the street lighting assessment will be expensed for the costs associated with operating the street lights within the subdivision.

Ms. Davis concluded by stating that staff recommends City Council approved Resolution No. 868-17 adopting the Initial Rate Resolution for the Shadow Ridge Phase II Street lighting District for fiscal year 17/18 (tax year 2017)

A discussion ensued between Council and Ms. Arrington regarding the costs associated with managing a special assessment. Ms. Arrington assured Council that all administrative fees and costs were already factored into the amount of the assessment.

 Mayor Blair opened the public hearing by asking if anyone wanted to speak for or against the proposed ordinance. There being no requests to speak, the Mayor closed the public hearing.

## Motion passed by a 7/0 roll call vote of the City Council.

D. **Resolution No 869-17** A Resolution of the City Council of the City of Orange City, Florida, adopting a proposed millage rate for the 2017-2018 fiscal year; establishing the date, time, and place for a public hearing on the proposed millage rate and the tentative budget; directing communication; expressing legislative intent; repealing all resolutions in conflict herewith and providing for an effective date.

Mr. Reischmann read the title of Resolution No. 869-17 into the record.

# Council Member Mahoney moved to adopt Resolution No. 869-17, seconded by Vice Mayor Crippen.

Ms. Davis advised that adoption of Resolution No. 869-17 will set the maximum tentative millage rate for fiscal year 2017/2018. The first public hearing on the budget is set for Wednesday September 13<sup>th</sup> and the final public hearing will be held on Wednesday September 26<sup>th</sup>. Ms. Davis noted for the record that, as required by state law, these two dates do not conflict with the hearing dates set by the School Board and Volusia County.

Ms. Davis advised that the 2016/2017 millage rate was set at 7.45 and staff recommends keeping the same millage rate for 2017/2018. She reviewed the required approval margins for various millage rates noting that four votes are required for a millage up to 7.6493; five votes are required for 7.6494 to 8.4142; and anything above that rate would require seven votes.

Ms. Davis proceeded with her PowerPoint presentation (a copy of which is attached and becomes a permanent part of these minutes.) She provided a historical analysis of the millage rates levied. She noted that in the past four years the millage rate was slightly above the roll back, two years before that the millage rate was lowered and one year before the roll back rate was levied. Ms. Davis concluded her presentation by stating that staff recommends that Council adopt Resolution No. 869-17 and set the tentative millage at 7.45 mills, which is a 5.77% increase over the 7.0434 roll back rate.

Mayor Blair opened the public hearing by asking if anyone wanted to speak for or against the proposed resolution.

Council Member Mahoney commented that Ms. Davis provided Council with a projection of the fund balance. He felt that the Council should look forward not backward, be in a position to handle the upcoming expenses, and able to pay recurring capital costs with recurring revenues.

Council Member Allebach suggested setting the tentative millage at 7.95 mills but no lower than 7.75 mills.

Council Member O'Connor spoke about several items that should be funded next fiscal year such as code revisions, updating salaries for fire lieutenants and possibility hiring police officers. He commented that maintenance should not be deferred because public safety is a priority. He stated that

he would like more information about the \$150,000 for the Information Technology Department. Council Member O'Connor asked if the \$25,000 homestead exemption tax rate will affect the city this year or next. He suggested setting the tentative millage rate at 8.2 mills.

Council Member Pupello suggested choosing the maximum millage rate of 8.2101 mills.

Vice Mayor Crippen commented that he would support an increased millage rate for the IT support specialist. He stated that he would support an 8.2101 millage rate. He asked if COLA increases were included in the budget. Ms. Arrington stated that a 2% rate increase would be the maximum for this year due to implementation of the pay plan earlier this year.

As a point of order, Mr. Reischmann advised Council a motion to adopt Resolution No. 869-17 is necessary.

Ms. Davis advised that a millage rate of 8.2101 represents a 16.51% increase over the rollback rate. It would generate \$460,716 in revenue of which \$12,720 must be deducted and pledged to the CRA as part of the TIFF and would result in \$447,996 in revenue.

Council Member Mahoney moved to adopt Resolution No. 869-17, with a proposed millage rate of 8.2101 representing and reflecting a 16.51% increase over the roll back rate, seconded by Vice Mayor Crippen and passed by a 7/0 roll call vote of the City Council.

E. **Resolution No. 871-17** A Resolution of the City Council of the City of Orange City, Florida, Volusia County urging members of the State legislature to adopt legislation amending current animal cruelty laws to impose stricter, harsher punishment and penalties for acts of animal cruelty.

Mr. Reischmann read the title of Resolution No. 871-17 into the record.

Council Member Allebach moved to adopt Resolution No. 871-17, seconded by Vice Mayor Crippen. Motion passed by a 7/0 roll call vote of the City Council.

## 8. DISCUSSION AND ACTION:

A. Wastewater Asset Management Plan

**Resolution No. 870-17** A Resolution of the City Council of the City of Orange City, Florida, approving the fiscal sustainability analysis and wastewater asset management plan; repealing all resolutions or parts of resolution in conflict herewith; and providing for an effective date.

Mr. Reischmann read the title of Resolution No. 870-17 into the record.

Migdalia Hernandez, Public Works Director, provided a detailed presentation of the Wastewater Asset Management Plan. She explained that the Clean Water State Revolving Funds (SRF) low loan rates are calculated using population data, Davis-Bacon pay rates compliance, American Iron Steel (AIS) compliance, an approved Asset Management Plan, and "Green Project" construction approaches. The City's estimated financial rate reduction for sewer projects is approximately 1.10%.

Ms. Hernandez reported that the Florida Rural Water Association developed a Fiscal Sustainability and Asset Management Plan in order to provide recommendations, procedures, and tools to assist with long range management. She stated that the plan would be updated annually by City management and will also provide information needed for future rate studies. Ms. Hernandez stated that staff requests Council approve Resolution 870-17 accepting and adopting the Wastewater Asset Management Plan

Bill Archville, Florida Rural Water Association, provided a detailed PowerPoint presentation (a copy of which is included in these minutes) describing the Fiscal Sustainability analysis and Asset Management Plan for the City. Mr. Archville reviewed the current conditions of the City's assets and provided recommendations, procedures and tools to assist with long range management. He stated that the Asset Management Plan is a living document and should be updated annually by management staff.

Council Member Allebach moved to adopt Resolution No. 870-17, seconded by Vice Mayor Crippen and passed by a 7/0 roll call vote of the City Council.

B. Engineering Services Consumptive Use Permit (CUP) Application Submittal

Ms. Hernandez provided a detailed PowerPoint presentation describing the City's current Consumptive Use Permit (CUP). She noted the CUP which was issued January 2014 will expire in December 2018. She suggested that the permit renewal process will take extra resources and time due to possible environmental impacts to groundwater.

Ms. Hernandez noted that Orange City's current CUP authorizes 2.539 mgd from the aquifer for public supply. The Saint John's River Water Management District (SJRWMD) is taking regulatory measures, though a comprehensive CUP permit revision, to increase the Blue Spring Minimum Flow and Levels (MFLs) to 157 cubic feet per second. To allow enough time to mitigate SJRWMD concerns regarding the City's current and future needs, the CUP renewal application must be submitted in December 2017.

Ms. Hernandez discussed in detail the CUP permit application requirements noting that a Demonstration of Need, potential for environmental impact analysis and a water conservation plan must be included. SMW Geosciences, Inc. was hired to identify strategies needed for the CUP renewal process. The next step is to evaluate groundwater models to identify potential environmental impacts, summarize the City's Water Conservation Plan and submit the CUP application. Ms. Hernandez stated that staff recommends Council approve the SMW Geosciences, Inc. proposal in the amount of \$38,000.

Referring to the Demonstration of Need Project Water Demand analysis, Council Member Mahoney observed that it appears potable water rate doubles while the reclaimed water rate does not, despite the fact there is more reclaimed water. He questioned why that is. Ms. Arrington replied because the gallon per capita, per person increases over a 20 year period.

Ms. Hernandez explained that billing consumption data was used, divided by 2.3 people, to get the gallons per capita. Consumption data is based on meter information. Another factor would be the number of vacationers in the City during that timeframe.

 Ms. Arrington clarified stating that past usage was based on seasonal clientele rather than the people currently living in the City. In the past when we looked at per capita there were a large number of people who left during the summer and that is no longer occurring.

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Mr. Palenzuela pointed out that between the years 2010-2015 there was an increase of commercial development throughout the City which can effect data calculation. Ms. Arrington agreed.

A conversation ensued between Council Member Mahoney, Ms. Hernandez, Ms. Arrington and Mr. Palenzuela explaining the number increase and the projections.

Ms. Hernandez discussed in detail the steps needed before the CUP permit application can be submitted. She concluded by stating that staff requests that the City Council authorize the City Manager to enter into an agreement with SMW Geosciences, Inc. for engineering services related to the CUP.

Mayor Blair opened the public hearing by asking if anyone wanted to speak for or against the proposed resolution. There being no request, the Mayor closed the public hearing.

 Council Member Allebach moved to authorize the City Manager to enter into engineering services agreement with SMW Geosciences, Inc. related to the consumptive use permit application submittal, as presented, for \$38,000, seconded by Vice Mayor Crippen. Motion passed by a 7/0 roll call vote of the City Council.

C. Update on Holly Avenue Stormwater and CRA Plans for SRF

Council Member O'Connor moved that the City Council approve storm water funding at \$96,265.31 and utilities funding at \$30,230.84 to complete the plans and specifications for the SRF deadline seconded by Vice Mayor Crippen.

Council Member Allebach noted that this agenda item was previously reviewed at the CRA meeting prior to the council meeting and does not need to be reviewed a second time.

Motion passed by a 7/0 roll call vote of the City Council.

Council Member Allebach reported a TPO meeting scheduled for July 26, 2017.

### 9. **REPORTS**:

## A. Mayor/City Council

Council Member O'Connor reported that he attended the Volusia County Hispanic Chamber event that was held last week in the City. He stated that the group is growing quickly and that it was an honor

### B. City Manager

None at this time.

having them here.

## C. City Clerk

Ms. Thomas reported that she sent out invitations for the ribbon cutting at the new Debary Fire station to all Council members. For those Council members that are unable to attend, the Debary Fire station is offering to provide a tour. If Council would like to attend please let Ms. Thomas know and she will make those arrangements.

### D. City Attorney

No report.

### 10. NEW BUSINESS:

None at this time.

## 11. APPROVAL OF MINUTES: July 11, 2017 Regular Meeting

Vice Mayor Crippen moved to approve the minutes of the July 11, 2017, Regular City Council meeting, seconded by Council Member Robinson and passed by a unanimous 7/0 voice vote of the City Council.

### 12. COUNCIL COMMENTS:

Council Member Pupello thanked everyone who attended the meeting. He stated that he looks forward to the decisions Council will have to make. He complimented all the presentations this evening.

Council Member Robinson voiced her appreciation for the new millage rate. She stated Council does not need to feel guilty, as the new rate is needed.

Council Member Allebach stated that he is excited about how the Council praises city staff. He commented that Orange City is making an effort to upgrade and in turn that affects positively on the economy.

Vice Mayor Crippen commented that a lot of important steps were taken this evening. He stated he is pleased with the details and discussions regarding the budget and the water report.

Council Member O'Connor complimented the city manager and staff. He stated, "The City Council has given staff a higher bar." He addressed the citizens who were listening online to the meeting and stated that he would like to hear their thoughts about how the funds should be spent.

Council Member Mahoney stated that when he previously served in 1999 the finances were not good. He stated the City needs to look forward and be prudent in terms of the assumptions made.

Mayor Blair stated that he is proud of the work that staff has done. He is proud of Council for the decisions they have made.

#### 13. ADJOURN:

There being no further business, Mayor Blair adjourned the meeting at 9:58 p.m.

1 2 3 4	RESPECTFULLY SUBMITTED:	APPROVED ON:
5	Melani Brown	Date
6	Deputy City Clerk	