

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida,  
2 held on Tuesday, May 27, 2008 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

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

6  
7 **ROLL CALL**

8  
9 **PRESENT:** Mayor Harley Strickland; Vice Mayor Jeff Allebach; Council Members; Tom Laputka,  
10 Tom Abraham, Don Sherrill, Donald Sandford, Jim Mahoney; City Attorney William  
11 Reischmann; Acting City Manager Chester Murray, City Clerk Deborah Renner

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13 **ABSENT:** City Manager John McCue

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15 The Invocation was given by Council Member Sherrill, followed by the Pledge of Allegiance.

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17 **1. PRESENTATIONS:** Proclamation

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19 Alice Gonzalez, Principal Manatee Cove Elementary School; Dana Kruger and Melissa Fratus, teachers,  
20 came forward and Council Member Laputka read a proclamation into the record naming the access road  
21 leading to the two new Orange City schools "Scholars Path." Mayor Strickland presented Ms. Gonzalez  
22 with a framed copy of the proclamation. Zack Butler, President of the Student Body came forward and  
23 was presented with a replica of the street sign that will be used. Ms. Gonzalez announced that the name  
24 of the new middle school will be "River Springs" middle school.

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26 **2. CITIZENS COMMENTS:** None at this time.

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28 **3. CONSENT AGENDA:** None at this time.

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30 **4. ORDINANCES – FIRST READING:**

- 31  
32 **A. ORDINANCE NO. 354:** an ordinance of the City Council of the City of Orange City,  
33 Florida, amending Chapter 2, Administration, of the Code of Ordinances of the City of  
34 Orange City, Florida, by amending Article V, "Investment Plan" containing a repealer  
35 provision, a severability clause and providing for an effective date.

36  
37 **Council Member Sherrill moved to adopt Ordinance No. 354 on second**  
38 **and final reading, seconded by Council Member Mahoney.**

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40 Christine Davis, Finance Director, came forward and advised she was available to answer questions.  
41 Council Member Mahoney noted a discrepancy between the Internal Control Policy and the Ordinance.  
42 He said that the word "shall" in the last sentence of the "**Control of collusion**" section should be used  
43 for both the policy and the ordinance. Ms. Davis responded that would be corrected. Referencing the  
44 answers to the workshop questions on page 2 of the agenda item, Council Member Mahoney said that  
45 feedback is needed from the advisor as to the best way to balance preservation of principal with return in  
46 the City's investment strategy.

1 Jeff Larson, D.A. Davidson & Co., Investment Banker, came forward and stated that he assisted in  
2 preparing the proposed Investment Policy. Responding to Council Member Mahoney's query, Mr.  
3 Larson said investments that are safe, liquid and that provide market yields are preferable noting that it  
4 provides flexibility to the portfolio. Mr. Larson commented that "transparency" has been added to the  
5 City's investment strategy. He pointed out that transparency allows the investor to know which funds  
6 the investment is in noting that was a problem for many local governments during the SBA failure last  
7 year. Mr. Larson explained that typically municipalities do not invest solely in US treasuries because  
8 these funds can become illiquid and the yields go down. He said there are various levels of investment  
9 options such as AAA-rated money market funds and collateralized deposits with banks that allow the  
10 flexibility specified in the policy. In addition, committed investments, minimum ratings and the  
11 maximum duration or term are also specified. Mr. Larson advised that once the proposed policy has  
12 been adopted he would come before Council to discuss in detail the City's investment portfolio.

13  
14 Council Member Mahoney questioned that if the portfolio contained other funds besides US treasuries  
15 would there be capital allocations between the treasuries and the other funds recommended. Mr. Larson  
16 responded "no." He stated that an investment portfolio is considered diversified when there are over a  
17 hundred different stocks in the portfolio. Participating in an investment fund such as a money market or  
18 US treasury fund which already has capital allocation incorporated is a better strategy and would  
19 provide the conservative investor similar benefits as the investor with a larger portfolio. Council  
20 Member Mahoney clarified that it is just a yield trade-off on credit risk. Mr. Larson responded that it is  
21 an inverted yield curve. He pointed out that currently short term securities are yielding higher than two  
22 year securities.

23  
24 Referencing page 5 section H. Repurchase Agreements, Council Member Mahoney stated that he was  
25 happy to see a statement indicating that securities must be delivered to the entity or a third-party  
26 custodian or trustee for safekeeping. Mr. Larson agreed, noting that there is a distinct difference  
27 between safekeeping and having a trust or custodian account. He said that banks are constantly  
28 changing and if US government securities or repos are included in an investment portfolio, a custodian  
29 or trust account must be solicited noting that it is a higher fiduciary duty than safekeeping.

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31 In response to a question from Council Member Mahoney, Mr. Larson said that an "AAAm" is a  
32 Standard and Poors performance rating noting that the "m" is a nomenclature for the designations for  
33 money market funds. Referring to the last sentence of **(4) Diversification Limits** on page 8, Council  
34 Member Mahoney questioned how diversification requirements for the City would be determined. Mr.  
35 Larson said that is standard language from the Government Finance Officer's Association (GFOA). He  
36 said that cash flow would determine the level of investments. Council Member Mahoney clarified that  
37 cash flow is matched to expected liability payments. Mr. Larson responded in the affirmative.

38  
39 Council Member Mahoney questioned if treasury strips is an appropriate investment for the City. Mr.  
40 Larson said that treasury strips are generally for more substantial portfolios. Typically, entities that  
41 participate in treasury strips have a staff person dedicated only to investments and a fully pledged  
42 advisor on retainer.

43  
44 Council Member Abraham commented that section 2-189 was completely removed from the ordinance  
45 and was instead summarized in section 2-186 Internal Controls and questioned why. Mr. Reischmann  
46 responded that the sections are similar but are not exactly the same. He said that it is a revision noting  
47 that 2-189 in the existing policy requires the independent auditor to review all investment activities on  
48 an annual basis and submit that report to Council. The proposed section 2-186 discusses the internal

1 controls that the city manager shall maintain and provides for the independent auditors review of the  
2 controls. Council Member Abraham stressed that in section 2-189 it clearly states that the internal  
3 auditor will report to the City Council but that same language is not included in section 2-186. Mr.  
4 Larson commented that auditors have a duty to present their audit findings to the city governing body  
5 and that includes a review of the investment policy and practices. He said that the proposed policy was  
6 drafted using a standard GFOA model noting that if something happens by matter of statute or practice  
7 it is not repeated. He said the report would be in the Management notes to the City Council. Council  
8 Member Abraham spoke in favor of the ordinance. He stated, "I'm going to vote for this ordinance, but  
9 I'm not going to sacrifice my right to ask the internal auditor to give me a report, through this Council  
10 about the investment policies and his comments."

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

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

- 15  
16 **A. ORDINANCE NO. 352:** An ordinance of the City Council of the City of Orange City,  
17 Florida, amending Ordinance 334, as adopted on March 11, 2008 to correct scrivener's  
18 error; providing for severability, conflicts and effective date.

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20 **Council Member Sandford moved to adopt Ordinance No. 352 on second**  
21 **and final reading, seconded by Council Member Mahoney.**

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23 Mayor Strickland opened the public hearing by asking if anyone wished to speak in favor of or in  
24 opposition to the proposed ordinance. No one appeared. The Mayor closed the public hearing.

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

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28 **B. ORDINANCE NO. 353:** An ordinance of the City of Orange City, Volusia County,  
29 Florida, approving and authorizing the Memorandum of Understanding Lease between  
30 the City of Orange City and the Village Improvement Association Orange City Women's  
31 Club, Inc., of the premises located at 200 East Rose Avenue, Orange City, Florida;  
32 providing for purpose, description, term, and consideration; providing for conflicting  
33 provisions; providing for severability; providing an effective date.

34  
35 **Council Member Mahoney moved to adopt Ordinance No. 353 on second**  
36 **and final reading, seconded by Council Member Laputka.**

37  
38 Mayor Strickland opened the public hearing by asking if anyone wished to speak in favor of or in  
39 opposition to the proposed ordinance. No one appeared. The Mayor closed the public hearing.

40  
41 Council Member Abraham questioned why the attorney expense for this matter was so high. Mr.  
42 Reischmann responded that he had several meetings with the Village Improvement Association (VIA) to  
43 discuss the details of the lease agreement. He described the issues noting that he had prepared several  
44 different drafts of the lease to incorporate all of the issues discussed.

45  
46 Council Member Abraham questioned the Mayor's conflict with the VIA, Mr. Reischmann responded  
47 that the Mayor had concerns about an issue arising out of a matter that is not related to the city. He said

1 that he advised Mayor Strickland there was no voting conflict and that he could participate in the  
2 discussions and vote on the matter.

3  
4 Council Member Abraham questioned how this lease is different than the license agreement with the  
5 Senior Center WAVA'S Hall. Mr. Reischmann explained that originally a standard agreement which  
6 included language not applicable to the VIA's use of Albertus Cottage was prepared. The Council felt  
7 that an agreement with that degree of legality was not necessary and directed staff to meet with the VIA  
8 and to draft an agreement that was specifically tailored to address their needs. Council Member  
9 Abraham pointed out that the senior center agreement would expire in September. He said that he  
10 wanted to ask the City Manager about his plans with regard to that matter. He questioned if the City  
11 would have to go through the whole process again in September. Mr. Reischmann responded that would  
12 depend on the terms specified in the lease agreement for WAVA's Hall.

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

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16 **6. RESOLUTIONS:** None at this time

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18 **7. DISCUSSION AND ACTION:** None at this time.

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20 **8. REPORTS:**

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22 A. City Manager

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24 Chester Murray, Acting City Manager announced that Mr. McCue is attending the Florida City/County  
25 Manager's Association conference in South Florida. He said that he had no report.

26  
27 B. Mayor/City Council

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29 Mayor Strickland reported that United Way was at the VCOG meeting and recognized many cities for  
30 their contributions. He displayed the certificate that Orange City received and stressed the importance  
31 of the City continuing its support. Mayor Strickland said that it was announced at the VCOG meeting  
32 that Map "A", which applies to the environmental corridor, had been renamed the Environmental Core  
33 Overlay (ECO). Mayor Strickland thanked the Council Members who attended the groundbreaking  
34 ceremony for the Chamber of Commerce. He said that the Chamber of Commerce is the working on  
35 developing the first "business incubator" for southwest Volusia. The Mayor said that he has reports  
36 available for review in the Clerk's office.

37  
38 Vice Mayor Allebach reported on the MPO meeting. He said the DOT passed out revised work plans  
39 for projects scheduled to begin between 2008 and 2012 noting that the cost for building new roads has  
40 increased by \$23,278,000. He suggested the increase is a result of recent tax reforms.

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42 C. City Clerk

43  
44 No further report.

45  
46 D. City Attorney

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1 Mr. Reischmann reported on the Charter Review Committee (CRC) meeting held last Monday. He said  
2 that an issue had risen with regard to compensations such as pension benefits for Council Members and  
3 the Florida Retirement System (FRS). He said that the CRC questioned the legality of the Council  
4 creating an "Elected Official Class" and has asked that he seek an Attorney General (AG) opinion on the  
5 matter. Mr. Reischmann commented that citizens at the CRC meeting requested that no City funds be  
6 spent on pension benefits for elected officials. Mr. Reischmann said that staff reviewed FS Chapter 121  
7 (which pertains to the FRS) and after checking with the FRS, learned that the City's participation is  
8 irrevocable. He said that in 2003 the City began its participation in the FRS noting that the Elected  
9 Official Class was added in 2004. Mr. Reischmann read from FS Chapter 121.052 (e). He said that  
10 there was a six-month window to include elected officials in the plan beginning on July 1, 2001 and  
11 ending on December 31, 2001. He said the CRC has suggested that the City's joining in 2004 was not  
12 timely and, therefore, illegal. Mr. Reischmann said that staff discussed this matter with the FRS and  
13 was advised that everything was done correctly and that the City's participation is irrevocable.  
14

15 Ms. Davis reported that she contacted the FRS today and requested a determination, in writing, from the  
16 attorney for the Department of Revenue as to whether the City met the requirements of FL Statute  
17 121.052 when the elected official classification was added in 2004. Ms. Davis said that she was advised  
18 that originally the FRS program was created by 1970 and that in 1997 the legislature added a specific  
19 class for elected officials. When the new classification was added, all participants had a six-month  
20 timeframe, July 1, 1997 to December 1, 1997 to enroll elected officials. She detailed the steps necessary  
21 and noted that a six-month opportunity was offered in 2001 for participating members. Ms. Davis said  
22 that when Orange City joined the FRS in November, 2003 the council members were included under the  
23 regular class. The City had six months to specify the elected official category noting that was done in  
24 April 2004. She felt that the timeframes specified in the statute were to facilitate enrollment in the  
25 elected official category. Mr. Reischmann read a response from the FRS into the record that stated,  
26 "The city joined for elected officials in 2004. In 2001 the Florida legislature gave a six-month window  
27 for agencies to designate the elected officer's class. Designating the elected class is different than  
28 joining for elected officials." A lengthy discussion regarding whether the City should participate in the  
29 FRS for elected officials ensued.  
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31 Council Member Sherrill expressed concerns that an AG opinion is not necessary at this time. He said  
32 the charter revisions would come before Council and the decision to seek an AG opinion could be made  
33 at that time.  
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35 Council Member Abraham stated that the CRC feels that an AG opinion is necessary. He said the City  
36 Attorney has every right to represent the City and to request an independent opinion noting that once  
37 that opinion has been issued the CRC must accept it.  
38

39 Council Member Laputka questioned if there were other AG opinions on this type of issue. Mr.  
40 Reischmann responded that he was not able to find one. In response to Council Member Laputka's  
41 question, Mr. Reischmann detailed the steps involved in preparing an AG opinion.  
42

43 Vice Mayor Allebach said that seeking an AG opinion would be costly. He expressed concerns that the  
44 charter review had already cost the City substantially. Vice Mayor Allebach felt that the CRC was  
45 searching for another mechanism to remove elected officials from the plan noting that could affect the  
46 pension plan for all city employees. He said that seeking an AG opinion is time consuming and that the  
47 CRC may not complete its work before its deadline.  
48

1 In response to a question from Council Member Mahoney, Mr. Reischmann said there is no cost  
2 involved in seeking an AG opinion but there would be attorney fees. Council Member Mahoney  
3 questioned whether a benefit classification could be frozen. Ms. Davis responded that would be a type  
4 of withdrawal and reiterated the membership in FRS is irrevocable. A lengthy discussion ensued.  
5

6 Council Member Sandford expressed concerns that seeking an AG opinion would be costly noting that  
7 after the AG response is received the City may still be in the same situation.  
8

9 **Vice Mayor Allebach moved that the City Council instruct the City Attorney to**  
10 **send this question to the Attorney General, seconded by Council Member**  
11 **Mahoney.**  
12

13 Council Member Mahoney commented that he seconded and would support this motion. However, he  
14 felt asking FRS about the pros and cons of freezing a benefit classification would be more cost effective.  
15 Mr. Reischmann said that staff had asked a number of questions but not that specific question. He said  
16 that his “gut feeling” is that it is not possible.  
17

18 **The motion failed by a 3/4 voice vote of the Council, with Council Members**  
19 **Sherrill, and Sandford; Vice Mayor Allebach and Mayor Strickland voting no.**  
20

21 **9. APPROVAL OF MINUTES:** April 8, 2008 Investment Policy Workshop  
22 May 13, 2008 Regular Council Meeting  
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24 **Council Member Laputka moved to approve the minutes of the April 8, 2008**  
25 **Investment Policy Workshop and the May 13, 2008 Regular City Council Meeting,**  
26 **seconded by Vice Mayor Allebach.**  
27

28 Council Member Mahoney noted that he was present at the April 8, 2008 Investment Policy Workshop.  
29 Council Member Mahoney noted that on page 6, line 36 Mr. Evans was representing Dixie Septic. He  
30 said that his comments as stated on page 11 line 21 “do not make sense.” He asked that they be  
31 reviewed.  
32

33 **The minutes were approved as amended by a unanimous 7/0 voice vote of the**  
34 **Council.**  
35

## 36 **10. COUNCIL COMMENTS**

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38 Council Member Sherrill said that Florida Fish Memorial hospital has donated various items for the  
39 Operation We Care program. He listed the items noting it would outfit about 192 soldiers. Council  
40 Member Sherrill stated, “To them it probably amounts to a couple thousand dollars but I’m just tickled  
41 to death they’re pitching in to help that much.”  
42

43 Council Member Laputka said that his son is in Baghdad and that he will be a recipient of one of the  
44 boxes. He said that the post office has a special program and will send boxes to an APO address for  
45 \$10.00 each. He said that the only requirement is that a declaration of what is in the box is completed  
46 and attached. Council Member Laputka said that the expectation was at least 30 boxes for army soldiers  
47 and 30 boxes for the marines, however, he predicted it would be much more. Council Member Laputka  
48 stated, “The City has really done well in that regard, the turnout has been great.”

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Council Member Sherrill remarked there are several hundred boxes to be mailed and that at \$10.00 a box it will be costly. He stated, "We are going to be asking for some help with the mailing of the packages."

Vice Mayor Allebach commented on a letter from County Commissioner Andy Kelly, commending Sergeant Greg Melvin for teaching traffic accident investigation skills to members of the Explorer program on his own time. Vice Mayor Allebach stated, "That's what kind of people we have, so when we do our budget in the next few months, let's make sure that we don't have to get rid of any of them."

Council Member Abraham said that he spoke with a senior citizen who attends the senior program at WAVA Hall. He said that she expressed concerns that the lease for WAVA Hall is almost up and the program may have to move to another location. Council Member Abraham said that he researched the matter and read the minutes. He said two years ago, the City Manager promised the seniors that he would help find another location for them. Council Member Abraham said that Mayor Erwin requested that the search begin as soon as possible. Council Member Abraham stated, "We need to ask Mr. McCue about his progress thus far."

Dottie Pomeroy, 667 N. Leavitt Avenue, came forward and thanked the Council for approving the VIA lease agreement for Albertus Cottage. She said that the general meetings would continue to be held at the Congregational church.

Mayor Strickland said in the past there had been some difficulties with voting at WAVA's Hall. He said that the Orange City Library Association had offered the library hall for voting. He said that plans are in the works to make that change before the next election.

**11. ADJOURNMENT**

**RESPECTFULLY SUBMITTED:**

**APPROVED ON:**

Gloria Williams  
Deputy City Clerk

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