

1 **MINUTES OF THE SPECIAL MEETING** of the City Council of the City of Orange City, Florida,
2 held on Monday June 30, 2008 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

3
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, Jim Mahoney, Donald Sandford; Don Sherrill; City Attorney William
11 Reischmann; Deputy City Clerk Gloria Williams; City Manager John McCue

12
13 **1. CONTINUE WITH REVIEW OF RECOMMENDATIONS FROM COMMITTEE:**

14
15 **Increased Information Access:**

16
17 **Section 3.01 B (g) Internet Posting of Budget Report**

18
19 Council Member Mahoney commented that this item should be addressed in the *Rules and Procedures*.
20 He stated that easy access to information is important and stressed the importance of making sure that
21 this issue is brought back for consideration as an amendment to the *Rules and Procedures*.

22
23 Hugh Strickland, 420 May Street, came forward and observed that since Council endorsed the
24 recommended changes to Section 7.10 which require citizen input regarding spending priorities,
25 information to make those recommendations must be readily available Mr. Strickland stated, "There
26 should be no doubt that it is available." He discussed his reasons for placing requirements in the Charter
27 for information such as the budget to be posted on the internet is necessary for citizens to give input.
28 Mr. Strickland stated that when posted on the website, the information is free, easily accessible,
29 accessible to people who work and it will be mandated that the information is there.

30
31 Council Member Sherrill said that he agreed with Council Member Mahoney that this item should be
32 addressed in the *Rules and Procedures*. He noted this item is already being done and if any problems
33 arise, Council can address it at that time.

34
35 Council Member Sandford said that the City has made "giant strides" and needs to make sure that it
36 continues. He recalled that a little over a year ago, there was very little information on the internet.
37 Council Member Sherrill maintained that this item should be addressed in the *Rules and Procedures*.

38
39 Council Member Mahoney commented that requiring a citizen workshop prior to the preparation of the
40 budget, changes the City's budgeting process. He said that previously, public input would be sought
41 after the budget was prepared. Council Member Mahoney felt that the budget should be the product of
42 public feedback. He spoke in support of access to information; however, he expressed concerns that the
43 Charter is not the appropriate forum for that mandate.

44
45 Council Member Abraham questioned if this item is intended for the ballot. He remarked that the
46 Attorney General's Accountability Initiative has already suggested that this information be available on
47 the internet. He predicted that State mandates regarding this matter are forthcoming. Mr. Hugh

1 Strickland stated that there is no state law in place at the present time, only the good will of the present
2 Council mandates posting on the website, however, he cautioned that Councils can change.

3
4 Vice Mayor Allebach and Council Member Laputka agreed that this item should be addressed in the
5 *Rules and Procedures*.

6
7 **Council Member Mahoney moved that the existing language on Section**
8 **3.01 (B) (g) be maintained, seconded by Council Member Laputka and**
9 **passed by 6/1 roll call vote of the Council with Mayor Strickland voting**
10 **“no.”**
11

12 **Section 5.05 Recording & Posting of Ordinances and Resolutions**
13

14 Vice Mayor Allebach questioned the additions to this section of the Charter. He asked whether this is a
15 State requirement that the City is already complying with. Mr. Reischmann commented that the
16 language in Section 5.05 is antiquated in that years ago, resolutions and ordinances were recorded in
17 books. He advised that the City currently sends all ordinances to Municipal Code Corporation and they
18 are codified into the code book Mr. Reischmann said that the proposed change expands the language to
19 include resolutions. He advised that ordinances are codified and resolutions are not. He said that the
20 CRC wants to mandate that resolutions are kept and identified in a chronological listing for easy access
21 and that both ordinances and resolutions be posted to the city web site.

22
23 Council Member Sandford questioned the need to add resolutions. Mr. Reischmann said that the CRC
24 felt adding the requirement for resolutions in the Charter would give a higher degree of importance for
25 keeping resolutions in a place that would provide open access to the public.

26
27 Mr. Strickland said that the proposed language was designed to guarantee that resolutions are
28 maintained in the same manner as ordinances. Council Member Mahoney commented that resolutions
29 are not codified. Mr. Reischmann agreed and asked whether this language would change the way the
30 Clerk's office currently keeps resolutions. He noted that this language would impose a requirement that
31 both ordinances and resolutions be posted in City Hall and on the City's website. Gloria Williams,
32 Deputy City Clerk, stated that both ordinances and resolutions are indexed and stored in file cabinets in
33 chronological order.

34
35 Mr. McCue spoke in favor of the idea to post information to the internet while noting that posting every
36 ordinance and resolution could be time consuming and costly as the City is not currently “in a digital
37 environment.” He said that the City had looked into converting all files to a digital format, but the cost
38 was prohibitive. Council Member Mahoney questioned whether the City would be able to comply with
39 a requirement to post documents on the website if it was included in the *Rules and Procedures*. Mr.
40 McCue responded that the City is already working towards that objective and that resolutions are
41 already on the web page under the Council's agenda items. Mr. McCue agreed with Council Member
42 Abraham that there will soon be state requirements for posting certain documents on the website. He
43 explained that, once approved, the resolution would have to be rescanned and placed in designated
44 storage location on the web page.

45
46 Paul Rasch, 2058 Kings Richard Court, came forward. He spoke in favor of putting resolutions and
47 ordinances on the web page. Mr. Rasch disagreed with Mr. McCue's statements, he said it takes about
48 60 seconds to scan a document and post to the internet, noting that it is not a time consuming or

1 expensive process. He suggested that it may be something that is being done now however mandating
2 the requirement of this information in the Charter would mean that the process could not be
3 discontinued.

4
5 Council Member Sherrill reiterated that there is already a system for storing these documents and there
6 have been no problems with that system. If the public wants information they can contact the City
7 Clerk's office. He agreed that at sometime in the future it may be a mandated requirement but that this
8 change should be addressed in the Council's *Rules and Procedures*.

9
10 Council Member Sandford expressed concerns for people who work during the day. He said it is
11 "virtually impossible" to get to the Clerks office during normal business hours. He spoke in favor of the
12 information being available electronically.

13
14 Council Member Mahoney requested that once the Charter Review meetings are concluded, the items
15 that were identified previously be addressed regarding access to information be revisited in a review of
16 the *Rules and Procedures*. He emphasized the importance of the Council accomplishing this task.

17
18 Mr. McCue questioned the language "in the book". He said that codifying ordinance costs about \$3,500
19 each time there is an update. He suggested that if resolutions were added that cost would increase. Mr.
20 Reischmann advised that ordinances are organized in the Code of Ordinance by subject and that
21 resolutions could not be organized in the same manner because resolutions typically do not address
22 specific subjects. He suggested that resolutions would have to be maintained in binders in chronological
23 order by the year with an index. He noted that filing the resolutions in that fashion may make it difficult
24 to locate a particular resolution. In response to a question from Mr. Reischmann, Ms. Williams stated
25 that currently the resolutions are kept in chronological order in file cabinets with an index.

26
27 Council Member Sandford recalled at that at the last Council meeting a resolution establishing fees for
28 the stormwater runoff system at construction sites was approved. He questioned how the construction
29 community would know of these new fees. Mr. McCue responded that information would be shared
30 when a contractor visits the Development Services Department.

31
32 Mayor Strickland asked whether anyone would like to amend the proposed language.

33
34 Vice Mayor Allebach expressed concern that the language is confusing. He said that by adding
35 resolutions and including "recorded in a book" there may be potential for misinterpretation which could
36 become a liability for the City. He suggested revising the sentence to indicate that resolutions are stored
37 in a proper place.

38
39 Mayor Strickland expressed his concern that resolutions which affect the business community are
40 passed and there is no prior notification. He spoke in favor of posting resolutions to the City web page
41 noting that the posting of resolutions as an agenda item is not effective because it does not provide
42 information on the adoption of the resolution.

43
44 Mr. Strickland came forward and reiterated that Municipal Code does not codify resolutions and that the
45 proposed Charter language does not require that resolutions be codified. Instead it would require that
46 resolutions be treated like an ordinance in that they must be posted where the public has access. He said
47 the CRC felt that resolutions should be treated in a respectful way much like ordinances because of the
48 impact they carry. He agreed with the Mayor's comments that often it is a surprise to the business

1 community that there had been changes that affect them and they know nothing about. Mr. Strickland
2 remarked that a number of cities that have begun to post all their fees on their website.

3
4 Robert Storke, 1122 E. Wisconsin Avenue, came forward and pointed out that the posting requirement is
5 only for a ten day period. He implied that would negate the intent of recommended change because
6 after ten days these documents could be removed.

7
8 Council Member Sandford commented that there needs to be a system for resolutions but not necessarily
9 in a book. Mr. Reischmann reiterated the Clerk's Office is currently logging resolutions in an index and
10 storing them in file cabinets.

11
12 Council Member Mahoney agreed there needs to be a defined system for the filing of resolutions and
13 reiterated that it should be handled in the *Rules and Procedures*. A lengthy discussion ensued about the
14 best way to accomplish this task.

15
16 Mr. McCue noted that the passage references a "book" and that this is not currently being done. He
17 further noted Mr. Storke's comment that the proposed posting requirement is only for a ten-day period.
18 He suggested that if the matter is something that should be immortalized, it should be done by ordinance
19 and included in the code book.

20
21 Mr. Reischmann noted that information can be located as long as it is indexed properly. He said that
22 this section provides for both temporary and long-term access to ordinances and resolutions.

23
24 Mayor Strickland reiterated his concern that citizens must be informed as to the Council's actions
25 regarding resolutions and ordinances. He suggested a posting on the web page listing the Council's
26 actions on agenda items.

27
28 Paul Rasch came forward and commented and that if resolutions are put on the web site, a search engine
29 such as Google would be able to find it. Council Member Mahoney responded that Google may not
30 always return a favorable or helpful response to a query. Mr. Reischmann reminded Council that after
31 ten days the information would no longer be available. Mr. Rasch suggested a modification to remove
32 the 10 day requirement.

33
34 Vice Mayor Allebach suggested the wording, "Every ordinance and resolution shall, upon it's final
35 adoption, be recorded by an organized system developed for that purpose by the City Clerk." He said
36 that way it is not necessarily in a book, but an organized system, the filing cabinet and would have an
37 index. Vice Mayor Allebach remarked that posting at the post office is antiquated.

38
39 Mr. Strickland came forward and suggested that the language "in a book kept for that purpose," as well
40 as the requirement to post at the Post Office be stricken for the proposed change.

41
42 In response to a question from Council Member Sandford, Vice Mayor Allebach said that extending the
43 requirement to post resolutions on the website is a significant change and that voter approval should be
44 required.

45
46 Mr. McCue suggested that the reference to "posting at City Hall" could also be stricken. Mr. Strickland
47 disagreed based upon "tradition." He said that even though few people come to City Hall, it is still

1 recognized as “the seat of government.” Mr. Strickland suggested that there should be a specific site
2 identified for the posting.

3
4 **Council Member Laputka moved that the language in Section 5.05 read**
5 **as follows: “Every ordinance and resolution shall, upon its final**
6 **adoption, be recorded by the City Clerk and shall be authenticated by**
7 **the signatures of the Mayor and the City Clerk. Every Ordinance and**
8 **resolution shall upon its final disposition, be available at the City**
9 **Clerk’s office and the city’s internet site if operational, seconded by**
10 **Council Member Mahoney.**

11
12 **Motion passed by a 7/0 roll call vote of the Council**

13
14 **Section 7.05 Effective Date of Budget**

15
16 Vice Mayor Allebach remarked that the City budget is adopted as an ordinance and in light of the
17 discussion of Section 5.05, he suggested changes to this section are not necessary.

18
19 **Vice Mayor Allebach moved that Section 7.05 remain as it exists in the**
20 **present Charter, seconded by Council Member Laputka and passed by**
21 **a 7/0 roll call vote of the Council.**

22
23 **Section 2.11 Filling of Vacancies**

24
25 Hugh Strickland came forward and advised Council that this section was reviewed by the CRC twice.
26 He explained that it appears confusing because language was added at the first review and then stricken
27 at the second review. He said the intent was that the filling of vacancies be done by the Council in a
28 public manner and that the Council establish a procedure in its *Rules and Procedures* for the filling of
29 vacancies that includes public notification and participation. He said that the an additional 15 days were
30 added to give the Council more time to accomplish the applicant review process.

31
32 Council Member Mahoney questioned the deletion of the reference to qualifications for service. Mr.
33 Reischmann said that was removed to prevent ambiguities and internal inconsistencies. Mr. Strickland
34 responded that it was removed because it was redundant noting that the qualifications requirements in
35 Section 2.09 would apply in any case.

36
37 Vice Mayor Allebach commented that the additional 15 days is appropriate. He recalled the difficulties
38 experienced when former Council Member Abell passed away and the struggle to fill the vacancy in a
39 30 day timeframe.

40
41 In response to a question from Council Member Mahoney, Mr. McCue said that the noticing
42 requirement is interpreted as an ad in the newspaper, the marquee sign and the web page. Mr.
43 Reischmann advised that could be addressed in the *Rules and Procedures*.

44
45 Mr. McCue questioned whether the term of the interim Council Member would be for the unexpired
46 term of the Council Member who vacated the position or until the next City election. Mr. Strickland
47 responded that the CRC felt the term should be until the next regular election which may result in the
48 appointment being for a partial term.

1 Vice Mayor Allebach suggested there be a clarification to the “next regular election.” He felt that by
2 inserting City before regular it would remove any doubt about the type of election discussed.

3
4 Council Member Mahoney questioned the reference to a special election in Section 2.11, subsection (b)
5 (1). Mr. Reischmann noted there is no requirement that the process for the filling of vacancies of
6 council members be the same as the filling of vacancies of the Mayor.

7
8 **Vice Mayor Allebach moved that the Council direct the City Clerk and**
9 **City Attorney to create a ballot question changing Section 2.11 to read, “A**
10 **vacancy on the Council shall be filled within 45 days by a majority vote of**
11 **the Council members remaining. Notice shall be given of a vacancy**
12 **requesting applicants for consideration. The interim Council Member’s**
13 **term shall run until the next regular city election, seconded by Council**
14 **Member Mahoney and passed by a 7/0 roll call vote of the Council.**

15
16 **Section 3.01 A, B, C Charter Officers**

17
18 Council Member Mahoney noted that there is a double reference to the removal of the City Clerk in
19 paragraph A, last sentence.

20
21 **Council Member Mahoney moved that the Council adopt the amended**
22 **language, in paragraph A, “appointed by and removed by the City Council**
23 **by a motion requiring four affirmative votes,” delete the last language of**
24 **the third subparagraph and adopt the proposed first sentence in paragraph**
25 **B “appointed by and removed by the City Council by a motion requiring**
26 **four affirmative votes” and adopt the proposed language in paragraph B.,**
27 **subsection (d), “The City Manager may be excused for illness or other**
28 **circumstances acceptable to a majority of the City Council,” and**
29 **paragraph C., “A City Attorney, appointed by and removed by the City**
30 **Council by a motion requiring four affirmative votes,” and by deleting the**
31 **last sentence in paragraph C. which duplicates the four-vote requirement,**
32 **seconded by Council Member Laputka.**

33
34 Vice Mayor Allebach suggested that the language included in paragraph A, subsection (d) should be
35 included in the City Manager’s contract. Council Member Mahoney conceded the Vice Mayor’s point,
36 however, he noted that the current language does not provide for an absence from a Council Meeting for
37 any reason.

38
39 Mayor Strickland suggested that the language clarifies the intent and that he supported it remaining in
40 the Charter. Vice Mayor Allebach agreed because of the mandatory language of “shall” in this section.

41
42 Mr. McCue questioned what the process would be for reporting an absence, for example, if he were
43 called away on an emergency. He questioned whether the notice would have to be given in a public
44 meeting. He suggested deleting the word “all,” advising that if Council is not happy with him, they can
45 terminate him at will.

46
47 Mayor Strickland said that he wanted to be sure that the Manager would be present at Council meetings
48 and if he can’t be there, that Council be informed of why he is absent.

1 Mr. McCue said that he is not opposed to giving notice to the Council, but suggested that it could be
2 done by email or other means.

3
4 Mr. Strickland suggested that the proposed language did not require notice in a public forum. Mr.
5 McCue disagreed because in order to meet the requirement of “acceptable to a majority of the
6 council...” it must be discussed at a public meeting or there would be a sunshine violation. He said that
7 he did not object to advance notification.

8
9 Mr. McCue suggested the following language: “The City Manager shall attend all City Council
10 meetings and have the right to take part in the discussion but shall not vote. The City Manager shall
11 notify the City Council in advance of any absences.”

12
13 **Both the motion maker and seconder withdrew their motion and second.**

14
15 Council Member Mahoney expressed his concern with the proposed language in that there could be
16 circumstances in which the Manager couldn’t give advance notice. Discussion ensued as to the
17 requirement to include the word “advance” in the motion.

18
19 **Council Member Mahoney moved to amend 3.01 B. (d), second**
20 **paragraph, to read, “Attend all City Council meetings and have the**
21 **right to take part in discussion but shall not vote. The City Manager**
22 **shall notify the Council of any absences,” seconded by Vice Mayor**
23 **Allebach and passed by unanimous 7/0 roll call vote.**

24
25 **Council Member Mahoney moved to adopt the Charter Review**
26 **Committee’s recommended consistency language regarding the**
27 **“appointed by and removed by the City Council by a motion**
28 **requiring four affirmative votes” as it appears to the City Clerk**
29 **(Section 3.01 A.), the City Manager (Section 3.01 B.), and to the City**
30 **Attorney (Section 3.01 C.) and to eliminate the redundant language**
31 **that follows as a result of the adoption of this motion (the last sentence**
32 **of paragraph A, and the last sentence of the second paragraph of C),**
33 **seconded by Council Member Sandford and passed by unanimous 7/0**
34 **roll call vote of the Council.**

35
36 **Section 5.07 Independent Annual Examination of Books and Records**

37
38 Council Member Mahoney noted that it was close to the ending time for the meeting and expressed his
39 concern that discussion on this section could be very lengthy.

40
41 Mayor Strickland expressed his concern that citizens will have questions about districts and questioned
42 whether there should be some criteria developed to present to them prior to the election. He said that he
43 had some and asked whether anyone else had any. The Mayor suggested developing a map using the
44 City’s GIS system. Mr. Reischmann said that the City Clerk had requested assistance with this from the
45 Supervisor of Elections, but was told that she was not allowed to be involved. He advised that the
46 drawing of the districts would not be part of the charter amendment, but would be done after the new
47 charter passed. Mr. Reischmann said that other cities have hired committees, or consultants to assist
48 with this task. He said that there are some basic requirements such as they must be substantially

1 equivalent in the number of citizens residing in each district and they must be contiguous. The Mayor
2 said that he just wanted staff to begin thinking about the process.

3
4 Mr. Strickland said that the Committee was presented with a map that was drawn by the Supervisor of
5 Elections and which no one liked. He said that he spoke with the person who had drawn the map and
6 was told that the more criteria presented, the more choices were available.

7
8 Mr. McCue said that the City does not have the internal capacity to create the types of maps needed to
9 develop districts. He said that he has called some neighboring cities to possibly assist with the drawing
10 of the map once the districts have been defined.

11 12 **Section 7.10 City Depositories**

13
14 Vice Mayor Allebach disagreed with the language referencing “security of principle and diversity of
15 placement” stating that is covered in the City’s investment policy. Mr. McCue agreed stating that this
16 section only applies to the City’s cash deposits for operating income. He said that there are
17 requirements to obtain bids for banking services. He noted that several years ago, the auditors had cited
18 the City for having too many bank accounts. Mr. McCue said that the City uses local banks.

19
20 **Vice Mayor Allebach moved to leave Section 7.10 as written in the**
21 **current charter, seconded by Council Member Mahoney.**
22

23 Mr. Strickland came forward and advised that this item had been brought to his attention by a few
24 citizens. He said that the purpose of the statement was to call upon the Council to ensure that there was
25 not too much money in one place and that the principle is secure. He recalled that there was a recent
26 occurrence that brought doubt on these questions. Council Member Mahoney concurred and stated that
27 “preservation of principle is paramount.” He said that he thought this issue was addressed in the City’s
28 revised investment policy.

29
30 Mr. McCue clarified that this section applies only to the City’s banking activities. In response to a
31 request for further clarification from Council Member Mahoney, Mr. McCue said that the first sentence
32 references “banks or depositories.” He said that the money in the banks is insured. Christine Davis,
33 Finance Director, concurred and said that money deposited in a “qualified depository” is safe and
34 protected. Council Member Mahoney asked what percentage of the City’s liquid assets falls into this
35 category. He asked if the City’s current investment policy conflicts with the charter language as
36 originally written. Ms. Davis stated her understanding of this section as requiring that any bank used by
37 the City be accepted by Council and that staff does not have the authority to open accounts without that
38 approval.

39
40 Mr. Reischmann clarified that the proposed language in this section will require that all resolutions in
41 the future to direct which banks or depositories are chosen must also consider security of principle and
42 diversity of placement.

43
44 Mr. McCue noted that the issue arises when these requirements are imposed upon the banks the City
45 uses for its operating accounts. He said that the City’s investment policy governs depositories chosen
46 for the City’s investments. Council Member Mahoney stated, “The purpose of the more banks is for
47 preservation of principle. We don’t need, if I’m interpreting what you’re saying correctly, more banks
48 to achieve that purpose. Is that correct?” Mr. McCue responded, “I would concur with that, yes.”

1 Mr. Reischmann observed that the issue becomes whether there is a practical distinction between banks
2 and depositories.

3
4 Mr. Strickland said that the goal of the CRC was to codify into the charter diversity among the totality of
5 banks and depositories so that large sums of money were not placed at risk. He said that he did not
6 interpret the section to require a diversity of banks because the word "and" lumps banks and depositories
7 together as a whole.

8
9 Vice Mayor Allebach noted that there is a motion on the floor to leave Section 7.10 as currently written
10 in the charter.

11
12 **Motion passed by 6/1 roll call vote with Mayor Strickland voting**
13 **"no."**

14
15
16 **2. ADJOURNMENT**

17
18 The meeting was adjourned at 9:07.

19
20 **RESPECTFULLY SUBMITTED:**

APPROVED ON:

21
22
23
24 Deborah J. Renner, CMC
25 City Clerk

26