

1 **MINUTES OF THE SPECIAL MEETING** of the City Council of the City of Orange City, Florida,  
2 held on Monday, July 7, 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, Jim Mahoney, Donald Sandford (Late: arrived at 7:10 p.m.), Don Sherrill;  
11 City Manager John McCue; City Attorney William Reischmann; City Clerk Deborah  
12 Renner

13  
14 Mayor Strickland noted that the City Clerk just returned from her annual conference and asked her to  
15 make a report to the Council. Ms. Renner briefly discussed a session she attended on Elections and on  
16 Intergovernmental Relations. She reported that the City of Winter Garden recently conducted a  
17 successful charter referendum by mail ballot. Council Member Mahoney noted that Council had  
18 decided to put Orange City's referendum on the November ballot. Ms. Renner responded that she was  
19 passing the information along for future reference.

20  
21 **1. Continue With Review of Recommendations from Committee**

22  
23 **Better Enable Council to Carry Out Responsibilities:**

24  
25 **Section 5.07 Independent Audit**

26  
27 Vice Mayor Allebach expressed his concern regarding several sections of the proposed language. He  
28 said that most of the requirements in the new language are already in place. Further, he disagreed with  
29 the idea of an audit committee comprised of only three council members.

30  
31 Council Member Mahoney read a statement made by Council Member Abraham from the minutes of the  
32 May 27, 2008 city council meeting in which he said that he refused to sacrifice his right to question the  
33 City's auditor. Council Member Mahoney said that he felt the same way and spoke strongly against  
34 assigning audit responsibilities to a committee. He maintained that this section of the charter should  
35 remain as currently written.

36  
37 Hugh Strickland, Charter Review Committee (CRC) member, came forward and noted that the proposed  
38 language was taken directly from the *Model City Charter*. He discussed the "Generally Accepted  
39 Auditing Standards" (GAAS) referenced in the language noting that it prohibits an auditor from auditing  
40 their own work. He said that there were concerns in the public and from the CRC members that an  
41 auditor may be providing additional services. Mr. Strickland said that the City Council members were  
42 "financial stewards." He advised that a proper audit "lifts the City's finances out of question." Mr.  
43 Strickland expressed that the proposed language places the City Council with the responsibility of the  
44 City's financial well-being. He said that this arrangement would avoid hiring the same people to do the  
45 audit and the day-to-day services for the city.

46  
47 Council Member Mahoney asked how the City's current approach to the audit is deficient. Mr.  
48 Strickland responded that currently, the City Manager is allowed to direct both the Finance Director and

1 the Auditor. Mr. McCue and Vice Mayor Allebach disagreed. Mr. McCue clarified that his only  
2 function is to advertise the bid for auditing services. He stressed that he does not direct the auditor in  
3 any way. Council Member Mahoney questioned how the City's current policy prevents the auditor from  
4 indirectly being influenced for the hope of other city services. Mr. McCue explained that the City does  
5 all of its work internally with the exception of the recent changes regarding implementation of the new  
6 GASB requirements. Council Member Mahoney said that he could see "some pluses" in having a  
7 change in the auditors. Mr. McCue concurred.

8  
9 Council Member Sherrill recommended leaving Section 5.07 as it is currently written.

10  
11 Council Member Abraham said that the current charter contains only four lines which provide guidance  
12 regarding the process to secure an auditor. He contrasted this with the model charter which contains a  
13 half-page of guidelines. Council Member Abraham advised that a change to this section to bring more  
14 specificity would be beneficial. He asked Council Member Mahoney if he was saying that all other  
15 charters are wrong. Council Member Mahoney responded that his main objection to the proposed  
16 language is the creation of the audit committee which serves as a "buffer" between Council and the  
17 auditor.

18  
19 Council Member Laputka agreed with the concept of rotating firms for auditing services and questioned  
20 whether that should be written into the charter. He concurred with Council Member Mahoney's  
21 objections to a committee.

22  
23 Mayor Strickland also concurred with the objections to a committee and questioned whether the  
24 proposed language could be amended in some way to make it acceptable.

25  
26 Evelyn Robinson, CRC Member, came forward and stated that she feels like the members of the CRC  
27 "wasted their time" because it appears the Council is objecting to every change they suggested. She  
28 suggested having all seven council members on the audit committee. Ms. Robinson observed that the  
29 people sent a message in the last election that they wanted change.

30  
31 Council Member Sherrill noted that the Council already serves as the audit committee under the present  
32 charter.

33  
34 Hugh Strickland came forward and suggested that Council Member Allebach's suggestions could be  
35 incorporated into the amended language by striking everything after "The Council shall:....." In the  
36 second paragraph.

37  
38 Vice Mayor Allebach suggested eliminating item (3).

39  
40 Mr. Reischmann suggested adding the words "of Florida" in the last sentence of this section so that it  
41 reads, "If the State of Florida makes an audit....." Mr. McCue interjected that the State would not do  
42 an audit unless the City was in a financial crisis and the audit would be done under the supervision of  
43 the Governor.

44  
45 **Council Member Mahoney moved to change the proposed language in**  
46 **Section 5.07 as follows: Strike the first sentence in the second**  
47 **paragraph which reads, "The Council shall designate no fewer than**  
48 **three of its members to serve as an Audit Committee." Change the**

1                   **language “This committee shall:” to “The Council shall:”; and delete**  
2                   **Item (3) “Receive the report of the internal auditor and present that**  
3                   **report to the Council .....”, seconded by Vice Mayor Allebach.**  
4

5 Christine Davis, Finance Director, noted that the State of Florida has Statutes that are referenced in a  
6 publication called the “Auditors Selection Guidelines” which is issued in accordance with 218.391 F.S.  
7 She questioned whether a potential conflict could be created if the statute changed and suggested  
8 referencing the statute so that the charter would change along with any statutory changes. She said that  
9 the proposed language may be necessary in states which provide no statutory guidance in regard to  
10 hiring and auditor, however, that is not the case in Florida.  
11

12                   **Council Member Mahoney moved to amend the motion to strike the**  
13                   **word “and” at the end of subsection (2) and to add the words “of**  
14                   **Florida” to the last sentence of this section so that it reads, “If the**  
15                   **state [of Florida] makes an audit....., seconded by Vice Mayor**  
16                   **Allebach and passed by unanimous 7/0 roll call vote.**  
17

18                   **Main motion as amended passed by unanimous 7/0 roll call vote.**  
19

### 20 **Section 2.03 Vice Mayor**

21  
22 Hugh Strickland came forward and said that the CRC members felt that electing a new Vice Mayor  
23 annually would promote experience among the Council Members. He also said that the CRC chose  
24 November for this election because it was possible that the person elected as Vice Mayor may not be re-  
25 elected to the Council and that would not be known for certain until after the date of the general election  
26 in November. He clarified that the Committee felt that the Vice Mayor should be elected every year  
27 whether there was a general election or not.  
28

29 Lengthy discussion ensued as to what month the election of the Vice Mayor should take place. Bob  
30 Storke, former CRC member, came forward and recalled that the discussions on the committee were that  
31 the swearing-in should take place in November. Vice Mayor Allebach urged caution that the dependent  
32 questions are grouped together as they would all need to pass in order for it to work. The City Clerk  
33 noted that Section 2.04 must be amended if Council wishes for newly elected members to take office in  
34 November.  
35

36 Mr. Strickland came forward and suggested that the language specify that the oath of office be  
37 administered at the first meeting in November. Discussion ensued regarding the logistics of selecting a  
38 date for the swearing-in.  
39

40                   **Vice Mayor Allebach moved to amend Section 2.03 to add the words**  
41                   **“in November” after “shall be done annually at the first regular**  
42                   **council meeting” and to amend Section 2.04 to replace the words**  
43                   **“following the election” with “in November,” seconded by Council**  
44                   **Member Laputka, and passed by unanimous 7/0 roll call vote.**  
45

### 46 **Section 2.01 City Council: Powers and Composition**

47

1 Mr. Reischmann reiterated that creating a district system is a two-step process. The first step is that it  
2 must be passed by the voters and the second is then to create the districts by ordinance. He observed  
3 that other cities have sometimes hired consultants to create their districts. In response to a question from  
4 Council Member Mahoney, Mr. Reischmann said that the districts do not have to be developed prior to  
5 the referendum election. Vice Mayor Allebach spoke in support of waiting until the “districts” concept  
6 is approved by the voters before beginning the implementation process. Mr. Strickland advised that in  
7 his research, he found that it was a fifty-fifty split as to whether the districts were developed prior to or  
8 after the election. He discussed some of the methods for creating the districts that he had seen in his  
9 research.

10  
11 Mayor Strickland asked whether there was any consideration given by the Committee as to what effect it  
12 would have on the districts if the enclave annexations were completed. Mr. Strickland responded that  
13 precincts 301 and 302 would be affected. He advised that the proposed language would limit  
14 redistricting after the initial implementation. He said that the districts are usually reviewed every ten  
15 years following the census. Mr. Strickland noted that the language would also prohibit a redistricting  
16 within one year of an election which would leave one year to accomplish the redrawing of boundaries  
17 since elections are held every other year.

18  
19 Vice Mayor Allebach noted that the census will take place in 2010, however the city would not be able  
20 to make any changes because when the results were published because it would likely be closer than one  
21 year before the next election so the boundaries could be adjusted in 2012. He expressed his desire to  
22 have all of the annexations completed prior to the new census. Mr. McCue responded that the City is  
23 “not far from a negotiated agreement.”

24  
25 Council Member Sherrill stated that he is not convinced that city elections should be by districts. He  
26 noted that Deltona has districts, but they have a population of 85,000 people and their districts contain  
27 about 10,000 people in each district. He said that Orange City’s entire population is only 10,000. He  
28 maintained that the people’s choices for the Council will be “downgraded” from seven to three. Council  
29 Member Sherrill stated, “I don’t see where you’re improving the situation for the citizens at all. I don’t  
30 see where you can tell me that districting is going to benefit Orange City in any way, shape or form.”  
31 Council Member Sherrill suggested that the election method remain as it currently is with all at-large  
32 members.

33  
34 **Council Member Sherrill moved to leave the election method “just as**  
35 **is,” seconded by Vice Mayor Allebach.**  
36

37 Council Member Sandford said that when he first moved to Orange City, there were three Council  
38 Members who were not property owners. He suggested that this influenced their decision making and  
39 noted that it was conceivable that there could be an entire Council that didn’t own property and he  
40 maintained that would not happen with a district system.

41  
42 Council Member Mahoney said that he did not necessarily disagree with any of the arguments made,  
43 however, he was approached by a resident who indicated to him that they felt they would be better  
44 represented by districts. He said this is why he feels it is best to present this issue to the voters and let  
45 them decide, rather than proceed based upon his own preferences.

46  
47 Council Member Laptuka concurred that the voters should have an opportunity to decide, but he stressed  
48 that it “should be presented in its entirety.” He concurred with Mr. Strickland that a sample of possible

1 district layouts should be available to the voters prior to the election, without it, he said that he is “sitting  
2 on the fence with the whole thing.” He expressed that without term limits, the concept of districts is  
3 “weakened.”  
4

5 Evelyn Robinson, CRC Member, came forward and recalled that during the campaigns for the last  
6 election, one of the issues that was discussed was term limits and districts and that a majority of the  
7 people at that time wanted to see these changes. She said that what she heard from people indicated that  
8 they had “no idea who represented them” and could not get a response when they phoned the Mayor or  
9 Council Members. She urged the Council to consider districts.

10  
11 Robert Miller, came forward and said that he is very happy to consider all of the Council as his  
12 representatives as opposed to just having one person. He maintained that for a City the size of Orange  
13 City, the people were better off having the entire Council representing them than just one. Mr. Miller  
14 recalled that during the election, there was a lot of discussion about “voting blocks” and suggested that  
15 the idea of districts was to act as “a protector for the politician, not a protector for the people.” He said  
16 that he prefers being able to talk with any of the Council Members, not just one particular one.

17  
18 Hugh Strickland came forward and spoke in support of an election system that encompasses a mix of  
19 both district and at-large representation.  
20

21 Council Member Laputka discussed a system where Council Members run in districts, but are voted on  
22 at-large by the citizens. Mr. Strickland responded that is called a “zone” system and it is used in Lake  
23 Helen. Mr. Reischmann said that it is a fairly widely-used method of elections. Council Member  
24 Laputka again expressed his support for term limits when coupled with district elections.  
25

26 Paul Rasch, Chair of the CRC, came forward and expressed that a City as large as Deltona should have  
27 more Council Members because each one is representing too many people. He said that the whole point  
28 of districts is to provide better representation by having someone who is directly accountable to a  
29 specific person and who lives in their area. Mr. Rasch noted that with districts, nothing prevents a  
30 citizen from approaching any member of Council regarding an issue, not just their own district  
31 representative. He also said that districts would encourage more people to run for office and that the  
32 elected official for the district would be able to know each person they represent personally. Mr. Rasch  
33 disagreed with Council Member Laputka that term limits compliment districts and, in fact, maintained  
34 that there is a higher degree of accountability with a district system and people would get rid of a  
35 representative who did not perform well.  
36

37 Mr. Strickland stated that he did not see a connection between districts and term limits.  
38

39 Vice Mayor Allebach said that he could not support spending a lot of time and money creating districts  
40 until the answer has been received from the voters. He noted that this subject had been a campaign  
41 promise of several candidates who got elected, and that the election had been very close, therefore, it  
42 could not necessarily be interpreted as a mandate for districts. Vice Mayor Allebach said that he would  
43 be more comfortable letting the voters decide on this issue.  
44

45 Ms. Robinson, CRC member, came forward and said that there was a feeling among the people that the  
46 elected officials were not accessible and that districts could improve communication and provide better  
47 representation.  
48

1 Vice Mayor Allebach stated for the record that he has not seen any data which indicates an increased  
2 voter turnout with districts. He disputed the suggestion that having to campaign throughout the entire  
3 city discourages people from running for office. The Vice Mayor noted that the current Council  
4 represents a larger geographic area of the city than ever before. He recalled that in 1997, there were  
5 three or four Council Members from Country Village and that now there is only one. He pointed out  
6 possible shortcomings with a district system. Vice Mayor Allebach said that he has not seen any areas  
7 of the City that are in decline due to lack of resources committed to it. The Vice Mayor concluded by  
8 stating, "Let this go to the voters, but I can tell you there's a lot of reasons not to. So, I think it will  
9 make a great, interesting debate."

10  
11 Council Member Mahoney said that he supports putting this issue before the voters because if there is a  
12 question about better representation, the voters should be given the opportunity to answer that question.

13  
14 In response to a question from Council Member Laputka, Council Member Mahoney clarified that the  
15 current motion is to strike the language recommended by the Charter Review Committee. He said, "If  
16 you want to have the question of districts presented to the voters, vote 'no' on Section 2.01."

17  
18 **Motion failed by 1/6 roll call vote with Council Members Mahoney,  
19 Sandford, Laputka, Abraham, Vice Mayor Allebach, and Mayor  
20 Strickland voting, "no."**

21  
22 **Council Member Mahoney moved to adopt the language  
23 recommended by the Charter Review Committee for Section 2.01,  
24 seconded by Council Member Laputka and passed by 6/1 roll call  
25 vote with Council Member Sherrill voting "no."**

### 26 27 **Section 2.09 Qualifications, Disqualifications and Forfeiture of Office**

28  
29 Council Member Mahoney noted an inconsistency in this section in that a change had been  
30 recommended by the CRC to make the language "gender neutral" in the first sentence, but not in the  
31 remaining sentences. He suggested that it should be the same throughout or not at all. He noted that the  
32 requirement for a supermajority vote in the last sentence had been stricken previously.

33  
34 Hugh Strickland came forward and suggested that the Council adopt either one form of language or the  
35 other and have staff ensure that it is consistent throughout the document.

36  
37 **Council Member Mahoney moved to have the language in the charter  
38 be "gender neutral," seconded by Council Member Laputka and  
39 passed by unanimous 7/0 roll call vote.**

### 40 41 **Section 2.12 Extraordinary Vacancies**

42  
43 **Vice Mayor Allebach moved to accept the language proposed by the  
44 Charter Review Committee to add "without regard to districts,"  
45 seconded by Council Member Laputka.**

46

1 Council Member Mahoney questioned whether there was a need to address a term for the appointments.  
2 Mr. Reischmann interpreted the Governor's appointments to be until the next election. He said that this  
3 process was provided for in State law.  
4

5 **Motion passed by unanimous 7/0 roll call vote.**  
6

7 **Section 4.01 Council Seat Designations**  
8

9 Council Member Mahoney moved to modify Section 4.01 by adding  
10 the word "the" before "at large Council seat" in the first sentence and  
11 the words "members elected to" between the words "Council" and  
12 "Districts," seconded by Council Member Laputka and passed by  
13 unanimous 7/0 roll call vote.  
14

15 **Section 4.02 Election and Terms**  
16

17 Council Member Mahoney moved to modify Section 4.02 (a) by  
18 changing the word "seats" to "Members" in the first sentence;  
19 changing the second sentence as follows: ";.....and Council members  
20 designated as seats Districts 4, 5, and 6 at large shall be elected.....";  
21 the next to last sentence shall be modified to read "In the 2009 election  
22 Council Members from Districts 4, 5, and the at large Member shall  
23 be elected." The final sentence in (a) shall read "The Mayor and  
24 Council Members from Districts 1, 2, and 3, elected in 2011.  
25

26 Modify the second paragraph of Section 4.02 by clarifying the  
27 sentence regarding qualifying so that it reads, "For qualifying ~~in~~  
28 beginning with the 2009 elections, residency and all other  
29 requirements shall apply to Districts 4, 5, and at large Council  
30 Member. For qualifying ~~in~~ beginning with the 2011 election, ....."  
31

32 Modify the third paragraph of Section 4.02 by striking the word  
33 "Thereafter" at the end of the first sentence.  
34

35 Motion was seconded by Council Member Laputka.  
36

37 Council Member Sanford noted that a change was also needed in the  
38 first sentence to strike the reference to Council "seats" and replace it  
39 with "Members."  
40

41 Motion passed by unanimous 7/0 roll call vote.  
42

43 **Section 4.06 Qualified Voters**  
44

45 Council Member Sanford moved that Section 4.06 be approved as  
46 submitted by the Charter Review Committee, seconded by Council  
47 Member Laputka and passed by unanimous 7/0 roll call vote.  
48

**Section 4.07 Nominations By Petition**

Vice Mayor Allebach noted that there has been a requirement added regarding petitions to include the signer's birth date or voter registration number. He said that this information has always been required on the petition forms. Mr. Strickland came forward and stated that the CRC added it to be consistent with state law.

**Vice Mayor Allebach moved to approve the changes to Section 4.07 as submitted by the Charter Review Committee, seconded by Council Member Laputka and passed by unanimous 7/0 roll call vote.**

The review of the Charter was complete.

Mayor Strickland noted that he did not favor placing the referendum on the November ballot, however, that was the decision of Council.

Ms. Renner stated that the Council must have first reading of the ordinance for the referendum at the second meeting in July and second reading at the first meeting in August in order to meet the Supervisor of Elections' deadline. Mr. Reischmann said that the ordinance will contain the language which will be presented to the voters. Mr. McCue noted that the ordinance would have to be prepared by next Wednesday in order to get it on the agenda for July 22<sup>nd</sup>.

Mayor Strickland advised that he did not think it was a "fair" schedule. He spoke in support of delaying the election in order to have time to educate the voters.

Mr. Reischmann stated that he would not be able to have the ordinance completed and ready for a review by the Council at a special meeting next Monday.

Council Member Mahoney said that it was mentioned by two of the CRC members that the Council did not accept many of the changes they proposed, therefore, the scope of the rewrite is less. Mr. Reischmann said that the final revised charter would have to be reviewed extensively to ensure that all of the changes are "internally consistent." He noted that the fewer the number of questions submitted to the voters, the better.

Mr. Strickland advised that Deltona is considering adding a question to the ballot regarding the formation of a city police force. He expressed his preference that the election not go on the November ballot, citing the fact that it would also give more time to educate the voters on the issues.

Mayor Strickland concurred that extra time to meet with the citizens would be beneficial. Council Member Mahoney stated that he was "a strong proponent" of having the issue on the November ballot because of the anticipated high turnout. He said he felt there was ample time to educate the voters between now and November. The Mayor asked Council Member Mahoney if his work schedule would allow him time to meet with citizens. Council Member Mahoney said that he felt the time constraint was more in getting the ordinance completed than informing the voters. Mr. Reischmann responded that the ordinance would have to be ready for the agenda packet which will go out next Wednesday. He said that changes could be made to the ordinance at first reading on the 22<sup>nd</sup>, however no changes could be made at second reading. Council Member Mahoney asked whether the agenda deadline could be

1 extended. Mr. Reischmann responded that in accordance with the Council's Rules and Procedures, the  
2 agenda packet is to be distributed on the Wednesday preceding the council meeting.

3  
4 Paul Rasch, former CRC Chair, came forward and stated, "Just because you made a decision, it doesn't  
5 mean you can't change it." Council Member Mahoney responded that he believed the decision was the  
6 right thing to do. Mr. Rasch emphasized the importance of educating the public and he noted that there  
7 will be a number of important issues on the ballot in November. He expressed his concern that the  
8 charter referendum will become lost among the other issues. Council Member Laputka stated that he  
9 was "uncomfortable with rushing." Vice Mayor Allebach said that he was not prepared to make a  
10 decision to delay the election at this time. Council Member Mahoney asked if it could be decided at the  
11 meeting on the 22<sup>nd</sup>. Mr. Rasch said that he did not feel the problem was getting the ordinance finished,  
12 rather it was having the time to make sure the public understands the proposed charter changes. He  
13 stressed that Council not rush this issue to the voters. Council Member Laputka concurred.

14  
15 In response to a question from Mayor Strickland, Mr. McCue said that he had an experience similar to  
16 this when he worked for Wakulla County. He stated that it will be a long process to get the amendments  
17 completed and adopted by the voters. He expressed his doubts that Council can complete their review of  
18 the final ordinance in one night.

19  
20 Council Member Mahoney stated, "My premise in supporting the presentation of districts to the  
21 community is that if a majority of the individuals believe that they are better represented then so be it. I  
22 believe that will be better ascertained in the November election because of how heavily contested it's  
23 going to be than in a mail in. That's my concern."

24  
25 Council Member Sandford disagreed and said that the best way to determine the desire of the voters is to  
26 not put it on the November ballot because the ballot is so lengthy. He expressed concern that people  
27 will give up before voting all of the issues.

28  
29 **Council Member Laputka moved to reconsider the previous motion to**  
30 **delay the charter referendum until a later date either by a mail ballot**  
31 **or any alternative thereof, seconded by Council Member Sherrill.**

32  
33 Council Member Mahoney reiterated his concern about the integrity of a mail in ballot versus an  
34 election.

35  
36 **Council Member Mahoney moved to amend the motion to eliminate**  
37 **reference to a mail ballot, seconded by Council Member Abraham.**

38  
39 Council Member Mahoney again questioned why Council Member Laputka favored a mail ballot.  
40 Council Member Laputka responded that he supports leaving it in the motion as it provides options.  
41 Council Member Laputka noted that mail ballots are the only method used for elections in several states  
42 around the country.

43  
44 Mr. McCue suggested making two motions, one for a later date and another for the method that will be  
45 used.

46

**Motion to amend failed by 2/5 roll call vote with Council Members Sandford, Laputka, Sherrill, Vice Mayor Allebach and Mayor Strickland voting “no.”**

Mr. Reischmann clarified that the motion is to not send the referendum to the voters at the November election, but at some time after that either by a special election or a mail ballot. Council Member Sandford suggested that the issue would become more clear once Council had an opportunity to review the draft ordinance.

**Main motion failed by 3/4 vote with Council Members Mahoney, Sandford, Abraham and Vice Mayor Allebach voting “no.”**

**ADJOURN**

The meeting was adjourned at 9:30 p.m.

Respectfully Submitted:

Approved on:

Deborah J. Renner, CMC  
City Clerk

\_\_\_\_\_