

1 **MINUTES OF THE WORKSHOP MEETING** of the City Council of the City of Orange City, Florida,
2 held on Tuesday, October 7, 2008 at 6:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

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

6
7 **ROLL CALL**

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

12
13 **ABSENT:** Council Member Donald Sandford

14
15 **1. DISCUSS CITY COUNCIL RULES AND PROCEDURES**

16
17 Council Member Laputka commented that the City has a new City Manager and that he felt that made this an
18 appropriate time to review the Rules & Procedures. He suggested that Mr. Murray may have some input on
19 the review.

20
21 Mr. Reischmann advised that the Rules & Procedures address how council meetings are conducted. He
22 noted that some of the topics listed in the agenda memo are not related to the meetings. Mr. Reischmann
23 advised that these issues could be addressed in an ordinance which would then be codified and made part of
24 the code book.

25
26 Mayor Strickland said that he found it confusing when he tried to review the information in the agenda
27 packet. He said that this is what prompted him to generate the memo he distributed at the beginning of the
28 meeting (a copy of which is attached and becomes a permanent part of these minutes).

29
30 Mr. Reischmann addressed the issues enumerated in the agenda memo (a copy of which is attached and
31 becomes a permanent part of these minutes) as follows:

32
33 Item #1: Clarification to the agenda process (i.e., placing/removing items from the agenda.)
34 He said that this item would be very appropriate for discussion and/or revision in this review.

35
36 Item #2: Do any of the current procedures conflict with Roberts Rules of Order?

37 Mr. Reischmann advised that there is language in the Ormond Beach Rules & Procedures which addresses
38 this.

39
40 Item #3: Statutory requirements vs. parliamentary requirements

41 Mr. Reischmann advised that this topic could prompt very lengthy discussion.

42
43 Item #4: Procedure for addressing absences.

44 Mr. Reischmann noted that this is not addressed anywhere within the current Rules & Procedures. He
45 advised that none of the sample documents addressed this topic either. Mayor Strickland noted that the
46 Charter provides that a member who leaves the dais during a meeting can be fined \$100. He questioned how
47 these brief absences should be handled.

48 Mr. Reischmann commented that Item 6. is "clearly within the scope" of the current Rules & Procedures.

1 He said that Items 7 & 8 don't directly impact how meetings are run, however, Council may want to review
2 for the purpose of clarifying or drafting legislation or policy to address the concerns raised in these items.

4 In regard to the issues raised by the Charter Review Committee, Mr. Reischmann suggested that Items (a)
5 Detailed process for filling a vacancy and (b) Detailed process for placing items on the agenda could be
6 appropriately addressed in the Rules & Procedures, while (c) Providing for access to public records
7 electronically and/or via the website should be addressed elsewhere.

8
9 Council Member Sherrill noted again that these issues had arisen during the Charter Review discussions and
10 he stressed that this is the time to address them.

11
12 Mr. Murray noted that policies do exist for issues such as purchasing, travel, and investments. Mr.
13 Reischmann reiterated that the Rules & Procedures deal only with the conduct of City Council meetings.

14
15 Mayor Strickland said that he would like to begin the discussion with Item 6, Citizen Comments. He noted
16 that the current rules provide that if an item is not on the current agenda, it can be placed on the agenda by
17 motion.

18
19 Council Member Mahoney expressed his understanding that Citizen Comments was the time for citizens to
20 speak on items that are not on the agenda and expanded on that to mean it was granted because they would
21 be given the opportunity to speak on items on the agenda at the time they came up for council consideration.
22 He said that when he began attending Council meetings, this resulted in having no opportunity for input
23 unless there was a public hearing for second reading of an ordinance.

24
25 Council Member Sherrill responded that this is addressed in Section Six on Page 5 of the Rules and
26 Procedures, specifically Section A. Vice Mayor Allebach referenced Section F which provides that persons
27 may address the Council on matters under consideration which he interpreted to mean anything else that is
28 on the agenda. Council Member Mahoney noted that permission to speak must be granted by the presiding
29 officer.

30
31 Mr. Reischmann noted that virtually all cities have a "Citizen Comments" section on their agenda and a
32 procedure that is also written in their "Rules & Procedures." He noted that Ormond Beach, Daytona Beach
33 Shores and Palm Coast provide an opportunity for public input after Council discussion has concluded.
34 Following public input, the item returns to the Council for further discussion and action. Mr. Reischmann
35 spoke in support of this system, saying that it seems to flow smoothly and quickly. He advised that there are
36 certain circumstances such as Public Hearing and "quasi-judicial matters" which require a bit more formality
37 regarding citizen input. He said that most other cities follow this method for citizen input on every agenda
38 item. In response to a comment from Mayor Strickland, Mr. Reischmann said that this applies only to
39 regular meetings, not workshops. The Mayor stated that he would not open the floor to comment from the
40 public for anything not on the agenda because tonight's meeting is a Workshop. In response to a request for
41 clarification, Mr. Reischmann advised that the current Rules & Procedures do not require a motion to accept
42 public comment. He further advised that there is no requirement to accept public input during a workshop.
43 He noted that the city of Palm Coast has workshop meetings every other week to review upcoming agendas
44 and that public comment is not allowed at those meetings. He clarified that if it is Council's direction that
45 the City Manager or City Clerk make changes to the Rules & Procedures, those changes would be
46 considered at a regular meeting at which time citizen input would be allowed. Mr. Reischmann said that it is
47 up to the Mayor whether he wants to accept public input tonight.

48
49 Council Member Sherrill suggested that Section Six in the current Rules & Procedures already clearly gives
50 a procedure for public comment.

1 Vice Mayor Allebach said that he had no objection to allowing public comment tonight.

2
3 Mr. Reischmann advised that if it is Council's intention to give citizens the right to speak on any issue on the
4 agenda, changes would be needed to Item Six "A" of the Rules & Procedures. He recommended that Item
5 "A" be broadened.
6

7 Vice Mayor Allebach maintained that Item 6 "F" allows for public participation on any issue under
8 consideration by the Council.
9

10 Mr. Reischmann clarified that if it is the intention of Council to allow anyone to speak on any issue, the
11 requirement for obtaining the permission of the presiding officer should be eliminated. He stated, "I would
12 respectfully submit that that is a slight but real distinction between what we currently have in our Rules and
13 Procedures and what some other cities have in their Rules and Procedures." Mr. Reischmann noted a recent
14 conflict regarding an individual who wished to speak but was not allowed to in accordance with the City's
15 Rules & Procedures. He suggested that eliminating the requirement for permission in this area would
16 eliminate such conflicts in the future. Council Member Mahoney said that he would like for that change to
17 be made. Council Members Sherrill, Laputka and Vice Mayor Allebach concurred. Council Member
18 Abraham noted that this matter is addressed in detail on pages 8 and 9 of Palm Coast's Rules & Procedures.
19 He said that he was "impressed" by their language and said that changes were needed in Orange City's
20 document. Mr. Reischmann said that he would make the necessary changes.
21

22 Council Member Laputka said that a couple of months ago, he was unclear about the procedure for having
23 items placed on the agenda and suggested that this be the next topic for discussion.
24

25 Mayor Strickland spoke in support of a Council Member bringing up an item they would like to have placed
26 on a future agenda so that it can be discussed and approved by the rest of Council. Mr. Reischmann said that
27 Palm Coast has such a procedure in their Rules, Item V. "J" on page 5. Mayor Strickland said that he felt
28 that was a good example. Mr. Reischmann elaborated that in order for a Council Member in Palm Coast to
29 place an item on the agenda, he must have the consensus of Council, however, this procedure is not
30 mandatory. Council Member Laputka questioned whether this would preclude a Council Member from
31 placing an item on the next agenda in between meetings. Council Member Mahoney suggested that a certain
32 amount of time is necessary for Council to get prepared before an item is brought to them on the agenda.
33 Mr. Murray said that the consensus of the Council should be to direct the City Manager to place the item on
34 the next agenda so that he has time to prepare the background information for the item. He stressed that it is
35 imperative for it to go through the City Manager in order to ensure that erroneous information is not
36 provided to Council. He also stressed the need for there to be a consensus among the Council regarding
37 placing an item on the agenda so that it doesn't put the Manager in the position of taking direction from just
38 one individual.
39

40 Mayor Strickland agreed with Mr. Murray, but he also felt that if the item was simply brought forward for
41 discussion, not action, there did not necessarily have to be consensus. Mr. Reischmann noted that many
42 issues take form as discussion items, which then result in direction from Council to return them for
43 consideration as an ordinance or resolution.
44

45 Council Member Laputka questioned during which point on the agenda future items should be brought up by
46 individual Council Members. Mr. Murray responded that it could be during the City Manager's report. Mr.
47 Reischmann advised that there is more than one way to bring items forward for the agenda. He suggested
48 that the Rules & Procedures could be amended to reflect that this method is acceptable. Mr. Murray
cautioned Council not to fall into the trap of having to vote on an item that was just brought up and had not

1 been researched. Mayor Strickland concurred, however, he said that if a Council Member has an issue they
2 want to discuss, they should be able to put it on the agenda.

4 Mr. Reischmann noted that in Palm Coast, a single Council Member could not place an item on the agenda
5 without the agreement of a majority of the others. Mr. Murray expressed that he felt there was ample
6 opportunity within the current agenda structure for Council Members to bring forward requests for future
7 agenda items.

8
9 Council Member Sherrill said that a Council Member could bring an item to the Manager at any time and
10 request that it be placed on the upcoming agenda as a discussion item. Mr. Reischmann advised that the
11 current Rules & Procedures do not set forth a process for putting items on the agenda. He observed that the
12 city of Deltona gives the Manager the discretion to pull items from the agenda if it is felt they are
13 inappropriate or incomplete.

14
15 In response to a request for clarification from Council Member Laputka, Mr. Reischmann stated that the
16 current procedures allow an item to be added to the agenda at the beginning of a meeting by motion and
17 subsequent vote. He cautioned that this could only be done in the event that no additional information
18 regarding the item was needed in order to take action on it. Vice Mayor Allebach noted that in this case, if
19 one Council Member felt that additional information was necessary it would be enough to postpone the item
20 to a future date. He said that presently, if a Council Member wants an item on the agenda, they simply tell
21 the Manager and he will put together an item for the next agenda. Mr. Murray agreed and said that he was
22 not aware of any problems with this system. Mayor Strickland responded that the only problem is that the
23 system has never been formalized. Mr. Murray said that the biggest concern for the Manager and staff is
24 that there is enough information available for Council to make an informed decision. He said that there is
25 nothing to prevent a Council Member from submitting an item at noon on Wednesday and demanding that it
26 be placed on the agenda. Vice Mayor Allebach suggested that a form be submitted to the City Manager ten
27 working days prior to the agenda deadline requesting that an item be placed on the next agenda.

28
29 Mayor Strickland asked the City Attorney if he could develop new language to address the concerns that
30 have been raised. Mr. Reischmann stated his understanding that Council is seeking to find a method to put
31 an issue on the agenda in a manner such that the City Manager has ample time to prepare the item, while also
32 facilitating the Council Member's request in a timely manner. He suggested that a deadline of twenty-four
33 hours prior to the publication of the agenda could be imposed on the request. Another option would be to
34 request that an item be placed on the next agenda during the "Reports" portion of the meeting. This option
35 could include a requirement for a consensus, majority vote, or solely on the authority of being an elected
36 official. He said that some cities allow a Council Member to submit an item seventy-two hours prior to a
37 meeting. The next issue is the actual process for placing the item on the agenda. Mr. Reischmann noted that
38 the agenda for the next meeting has already been completed, but if a Council Member wished to add an item,
39 they could do so up until 4:00 on Wednesday.

40
41 Mr. Reischmann noted again that many cities require that a request for a future agenda item be brought up
42 during a regular meeting. Council Member Mahoney asked "What's wrong with that approach, gentlemen?"
43 He said that this would dispel the feeling that the City Manager could act as a "gatekeeper" and restrict
44 Council from accessing the agenda if he so desired. He said that the only issue that would remain with this
45 regulation would be whether or not Council requires the agreement of a majority in order for the issue to
46 move forward to the agenda. Council Member Mahoney asked, "To what extent is that deficient in
47 addressing our needs." Vice Mayor Allebach responded that it is not deficient, however, in the current Rules
48 & Procedures, the process is not outlined in detail. Mayor Strickland concurred. Mr. Reischmann agreed
49 that the current Rules and Procedures do not offer a lot of guidance regarding placing items on the agenda.
50 Mr. Murray said that staff would develop a process for Council's consideration.

1 Vice Mayor Allebach returned discussion to Item 2 (see below):

2
3 Item #2: Do any of the current procedures conflict with Roberts Rules of Order?

4 Mr. Reischmann spoke in support of the language contained in Section 2.11 of the City of Ormond Beach's
5 Rules & Procedures.

6
7 **It was the consensus of Council to adopt the language found in the Rules**
8 **and Procedures in Section 2.11 of Ormond Beach.**
9

10 Mr. Reischmann recapped the issues that had been covered thus far: Citizen Comments; relationship
11 between Council's Rules and Roberts Rules of Order; and the agenda process.

12
13 Mr. Reischmann discussed Item 3; Statutory Requirements versus parliamentary requirements stating that if
14 a statutory procedure is provided, it must be followed.

15
16 Item #4: Procedure for addressing absences.

17 Mr. Reischmann noted that this issue had surfaced recently. He said that he did not see where this issue
18 could be appropriately addressed in the Rules and Procedures. Council Member Sherrill suggested that it
19 could be handled by Resolution or Ordinance. Mr. Reischmann responded that the Attorney General's office
20 provides "some guidance" concerning "excused" and "unexcused" absences. After discussion among the
21 Council, it was concluded that absences could be excused by the Council, however, no process currently
22 exists to do so. Council Member Sherrill stated that it needs to be clarified because there is someone at the
23 present time who is "abusing the system." Mayor Strickland said that he would be interested in how this
24 issue is handled in other cities. He noted that absences are "excused" at VCARD meetings simply by a
25 phone call.

26
27 Mr. Reischmann said that he reviewed the procedures from other cities which were presented with the
28 agenda packet tonight and could find no guidance for this issue. He cautioned that "there is a process and
29 then there's substance" and said that it is important to make the distinction. Mr. Reischmann said that case
30 law does exist from the Attorney General's office to provide guidance on how to do that. Mr. Reischmann
31 discussed procedural options. He said that it could be discussed and determined at the time of the roll call
32 based on whether or not the absent Council Member requested that the absence be excused.

33
34 Council Member Sherrill said that he would like the "four meeting" requirement broadened to include
35 regular or special meetings as opposed to only regular meetings as currently written. He said that this issue
36 could be changed in the current charter amendment.

37
38 Vice Mayor Allebach noted that a serious illness or injury could result in a two-month absence from
39 Council. He said that the procedures need to be clarified to identify when Council votes to deem an absence
40 excused. Mr. Reischmann said that under the current provisions, a Council Member could miss four
41 meetings and then seek to retroactively have one of them excused. Mr. Murray observed that the main issue
42 seems to be whether to make the decision whether to excuse an absence immediately at the time of the
43 absence, or make it a cumulative issue and then decide when four unexcused absences have been reached.
44 He said that he felt it should take Council action to make a determination on the night of the absence as to
45 whether it is excused or not. Mayor Strickland asked whether the Council wishes to make a ruling on that or
46 let a notification by the absent Council Member be sufficient to constitute an "excused" absence. Mr.
47 Murray advised that is Council's determination to make.

48
49 Council Member Sherrill spoke in support of a majority vote by Council. Vice Mayor Allebach said he did
50 not support an automatic "excused" just based on a telephone call that the Member was not going to be there.

1 Council Member Sherrill suggested that it should be determined at the following meeting. Mr. Reischmann
2 noted that there are many situations which could prompt an absence, such as a car accident on the way to the
3 meeting. Mayor Strickland requested that staff provide two or three different options on this issue.

4
5 Mr. Reischmann summarized, stating, "You're talking about you're giving your staff, your City Clerk and
6 your City Attorney direction to come up with an ordinance to amend your current code to provide guidelines
7 for determination and implementation of your Charter dictates."

8
9 Council Member Allebach suggested that this would also be a good time to address the process to replace a
10 Council Member who was being removed.

11
12 Council Member Sherrill stated, "The situation we've got here tonight, that gentleman should have been at
13 this meeting, this is a special meeting we called. Now, he's used the system already, came to a meeting and
14 he's back clear again. Now all of a sudden, he misses this meeting and I'll be guaranteeing you he'll
15 probably miss the next meeting, too." Mr. Reischmann noted that tonight's meeting is a workshop. Council
16 Member Sherrill responded, "I realize that. Special meetings, workshops, it should all be the same." Mayor
17 Strickland stated, "But that's not what the Charter says." Council Member Sherrill responded, "I thought
18 we were talking about changing it." Mayor Strickland stated, "I would like to see us at least have some
19 notion as to what's the procedure to get an excused absence."

20
21 Mr. Reischmann suggested that an amendment to Chapter 2 of the code could be adopted that gives Council
22 the authority to determine an excused or unexcused absence which determination shall be made at the
23 meeting or the meeting thereafter. Mr. Murray noted that if the absence was considered at the meeting after,
24 it would give the absent Council Member five meetings rather than four. He suggested that an absence could
25 generate an automatic agenda item for the next meeting to require Council to vote on excusing the absence.
26 Council Member Laputka advised that would give the City Manager time to investigate the absence. Mr.
27 Reischmann said that this system could be included in the revised Council Rules and Procedures under
28 "Agenda". Mr. Murray noted that the only problem with this method would be that it would be the fifth
29 meeting after the four absences before the seat could be declared vacant. Mr. Reischmann suggested that
30 this consideration could take place following the roll call.

31
32 Mayor Strickland asked whether it would be possible to find out if any other cities have a provision similar
33 to this and if so, how is it handled. Vice Mayor Allebach said that the Attorney General has information
34 regarding the classifying of absences. Mayor Strickland said that it would be helpful to have that
35 information.

36
37 Council Member Mahoney referred to Section 2.5 of the Ormond Beach Rules & Procedures which deals
38 with written comments when absent from a meeting. He said that he was in this situation recently and that
39 he had called the City Manager and asked him to read his comments at the meeting. He asked if this was
40 acceptable and questioned whether it should be added as a procedure. Mr. Murray responded that he would
41 not see any City Manager having a problem with accommodating such a request from a Council Member.
42 Mayor Strickland agreed and said he did not feel it needed to be included.

43
44 Mr. Reischmann raised the issue of email to or from city council members. He stated his understanding that
45 the City does have an internal policy regarding email for employees. He said that this issue touches on
46 adherence to both Public Records Law and the Sunshine Laws. Mr. Reischmann said that other cities have
47 had issues when their elected officials use their home computers for official emails and have not taken steps
48 to separate the two. He said that response to a public records request could result in the Council Member
49 having to produce all of his/her emails. Mr. Murray responded that each Council Member has the City's
50 email system available on their home computers which produces record copies on the City's file server. He

1 noted that caution must be taken regarding communication between Council Members. Mr. Reischmann
 2 advised that this should not take place. Council Member Mahoney said that it would be acceptable to send
 3 an email to another Council Member, however, that Council Member could not respond. Mr. Reischmann
 4 clarified that violations occur when there is a "give and take" of information.

5
 6 Mr. Reischmann advised that he did not believe the Council Rules & Procedures was the appropriate place to
 7 deal with the guidelines for filling a vacancy on the Council. Mayor Strickland concurred. Mr. Murray
 8 suggested that it needs to be included in the code.

9
 10 Council Member Mahoney clarified it was decided that Items 7. Policy on unsubstantiated allegations of
 11 violations, and 8. Policy on requesting information from staff, should be addressed by ordinance and he
 12 asked how discussion and action on these issues would proceed? Vice Mayor Allebach suggested that
 13 perhaps this issues should be the subject of another workshop. Mr. Reischmann concurred that these two
 14 issues do not pertain to how meetings are run. Mayor Strickland suggested that Mr. Murray suggest some
 15 solutions to these issues and return with recommendations for Council. Mr. Reischmann said that the subject
 16 could be addressed further in another workshop, or a special meeting could be called, or the matter could be
 17 placed on a regular meeting agenda as a discussion and action item.

18
 19 **2. ADJOURN**

20
 21 The meeting was adjourned at 8:31 p.m.

22
 23 Respectfully Submitted:

Approved on:

24
 25 

26 Deborah J. Renner, CMC
 27 City Clerk

10-28-08
