

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida,
2 held on Tuesday, January 27, 2009 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange
3 City.

4
5 **CALL TO ORDER**

6
7 The Meeting was called to order at 7:00 p.m. by Mayor Strickland and roll call was taken.
8

9 **ROLL CALL**

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

14
15 **ABSENT:** Council Member Donald Sandford

16
17 The Invocation was given by Pastor Barry Greening, Volusia County Baptist Church
18

19 **1. ABSENCES**

20
21 Shall the absence of Council Member Don Sherrill on January 13, 2009 be excused?
22

23 **Council Member Mahoney moved that Council approve Council**
24 **Member Sherrill's absence from the January 13, 2009 Regular**
25 **Council Meeting, seconded by Council Member Laputka.**

26
27 Council Member Laputka acknowledged that Council Member Sherrill provided notification before the
28 meeting. Mayor Strickland remarked this was the first meeting that Council Member Sherrill missed
29 since becoming a Council Member.

30
31 **Motion passed with a unanimous voice vote of 6/0.**

32
33 Shall the absence of Council Member Donald Sandford on January 13, 2009 be excused?
34

35 In response to a question from Vice Mayor Allebach, Mayor Strickland advised that notification of
36 Council Member Sandford's absence had not been provided prior to the meeting.
37

38 **Vice Mayor Allebach moved that Council Member Sandford's**
39 **absence from the January 13, 2009 Regular Council meeting not be**
40 **excused, seconded by Council Member Abraham.**

41
42 Council Member Abraham recalled that the issue of Council Member Sandford's absences had
43 previously been discussed at several meetings. Due to the circumstances at the time, Council decided to
44 "wait and see." He agreed with Council Member Sherrill's observation that a pattern is developing, he
45 stated that the Council can no longer allow this behavior to continue.
46

47 **Motion passed with a unanimous voice vote of 6/0.**

1 As a point of order, Mayor Strickland questioned if this motion was appropriate since it was made in the
2 negative. Mr. Reischmann responded that it was.

3

4 **2. PRESENTATIONS/PROCLAMATIONS: Arbor Day Proclamation**

5

6 Mayor Strickland announced that he and Council Member Laputka attended a City sponsored Arbor
7 Day event in Dickinson Park. He said Council Member Laputka read a Proclamation at the event and
8 asked him to read into the record. Council Member Laputka read the Arbor Day Proclamation into the
9 record proclaiming January 27, 2009 as Arbor Day in the City of Orange City.

10

11 **3. CITIZENS COMMENTS:**

12

13 Henry Durica, 1310 East Lansdowne, came forward to discuss a notice in the newspaper stating that the
14 City’s drinking water had levels of Coliform bacteria above the drinking water standard. He questioned
15 how long the citizens would have to wait to find out if they were exposed to E. Coli. Mr. Murray
16 advised that the Utility is required to put a notice in the newspaper when the water supply tests positive
17 for high levels of bacteria. After the initial positive finding, a series of tests on the water supply
18 produced negative results. Mr. Murray stated, “We are totally confident in the water supply, there is
19 absolutely nothing wrong.” He suggested the positive results were attributed to a bad test. Paul
20 Johnson, Director of Public Works, came forward and stated that the Utility immediately reviewed its
21 testing procedures and instituted changes as well as changed the testing laboratory.

22

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

24

25 **5. ORDINANCES – FIRST READING:**

26

27 **A. ORDINANCE NO. 377:** An ordinance of the City Council of the City of Orange
28 City, Florida, authorizing the borrowing of money in an amount not to exceed
29 seven hundred fifty thousand dollars for the purpose of financing a portion of the
30 City’s costs of certain road and utility improvements within the Sparkman Ridge
31 Residential Planned Unit Development project; and providing an effective date.

32 Vice Mayor Allebach read the title of Ordinance No. 377 into the record.

33

34 **Council Member Laputka moved to adopt Ordinance No. 377,**
35 **seconded by Council Member Sherrill.**

36

37 Mr. Murray advised that the proposed ordinance would provide staff authorization to seek funding for
38 road and utility improvements on Sparkman Ave. He said the loan documents would come forward at a
39 future meeting. An item on tonight’s agenda will provide an update on the matter. Christine Davis,
40 Finance Director came forward and announced that Jeff Larson, D.A. Davidson, was present to answer
41 questions. Mr. Reichmann commented that this ordinance is a requirement of the City Charter.

42

43 Council Member Abraham questioned the next steps. Ms. Davis advised that Council will be discussing
44 the results of the banking Request for Proposal (RFP) and choosing a lender later this evening and that a
45 resolution choosing a lender would be included on the next agenda. Council Member Abraham
46 questioned who would be responsible to repay the loan if the development does not occur. Ms. Davis
47 stated that staff would bring forward an amendment to the development agreement with Sparkman LLC

1 that would articulate the developer's responsibility for this debt. Mayor Strickland noted that this
2 agenda item is to provide staff permission to pursue this matter. He suggested that Council Member
3 Abraham's concerns could be addressed once staff has had an opportunity to work out the terms and
4 conditions of the loan agreement. Mr. Reischmann pointed out that this is first reading of the ordinance
5 and the item would come back at the next meeting for second reading.

6
7 **Motion to adopt Ordinance No. 377 on first reading passed by 6/0 roll call**
8 **vote.**

9
10 **6. PUBLIC HEARINGS/ORDINANCES – SECOND & FINAL READING:** None at this time.

11
12 **7. RESOLUTIONS:**

13
14 **A. RESOLUTION NO. 522-09:** A resolution of the City of Orange City, Florida, cancelling
15 the contract between the City of Orange City and the Society For The Prevention of Cruelty
16 to Animals of Volusia, Inc. for animal control services in the City of Orange City;
17 repealing all resolutions in conflict herewith and providing for an effective date.

18
19 Vice Mayor Allebach read the title of Resolution No.522-09 into the record.

20
21 **Council Member Laputka moved to adopt Resolution No. 522-09,**
22 **seconded by Council Member Sherrill.**

23
24 Mr. Murray advised that this resolution provides staff authorization to provide 30 days written
25 notification to the Society for the Prevention of Cruelty to Animals of Volusia, Inc. (SPCA) if the City
26 wishes to terminate its contract.

27
28 Mayor Strickland noted there are a numbers of requests to speak on this matter. He asked that everyone
29 limit his or her comments to 3 minutes.

30
31 Salli Combs came forward and stated that she is the Director of the SPCA. She clarified that she is not
32 paid by the City and that payments for services provided are for the SPCA. Ms. Combs provided an
33 overview of the animal control procedures. She stated that the if City were taking animals to the
34 Humane Society it would have already paid \$4,560 to euthanize animals noting that figure did not
35 include the citizens voluntarily relinquishing their animals. Ms. Combs said that other cities are
36 working toward establishing a "no kill animal control" service similar to the City's because it is less
37 costly to save lives than to kill. Ms. Combs acknowledged there were some problems with the service
38 the SPCA provides. She suggested that was due to an increase in calls at a typically slow time of the
39 year. Many of the citizens have not been calling the correct telephone numbers which delays the
40 SPCA's response. Traps have been broken or stolen and as a result the SPCA has only two traps
41 available, and cannot leave traps in one location for extended periods. Citizens are unaware of the
42 trapping process and it may be difficult to catch the animal, especially if their neighbors are feeding the
43 animal. Ms. Combs detailed the service the SPCA provides. She said that in addition to trapping
44 animals, the SPCA also rescues and impounds injured animals. If the animals are not claimed by an
45 owner, they are placed in foster care or put up for adoption. The SPCA utilizes the trap, neuter, release
46 program, and has networks with licensed animal welfare organizations to assist with placement,
47 including posting to the internet. Ms. Combs stated, "Of course we can't save them all but we do our
48 best."

1 Ms. Combs asked the Council to continue to work with the SPCA. She detailed some of the
2 improvements to the services provided such as hiring additional staff to answer phone calls. Ms. Combs
3 said that she is working to implement the low cost spay and neutering services with the County.
4 Municipalities must pass an ordinance mandating spay and neutering and City residents pay on a sliding
5 scale.

6
7 Ms. Combs reported that last year the County euthanized 17,000 animals at a cost of 1.2 million dollars
8 to tax payers. She requested the opportunity to meet with the City Manager and the Police Chief to
9 discuss ways the SPCA could continue to serve the City. She suggested that City personnel could
10 answer the calls during the day with the SPCA handling after hours calls and injured animal calls. In
11 addition, the SPCA could continue to maintain the kennels and receive the animals.

12
13 Ms. Combs warned Council that a contract with the Humane Society is very costly. She reiterated that
14 the City would be charged \$80 for every animal received. Ms. Combs told Council that recently there
15 was a problem with feral cats in a mobile home park in the City. The park hired a private trapper and in
16 two weeks time they trapped approximately 86 cats. If the City had a contract with the Humane Society
17 at the time, it would have resulted in a substantial cost. In addition, Ms. Combs asked Council to
18 consider the inconvenience to its citizens having to travel long distances to reclaim their lost animals.
19 She talked about the possibility of overcrowding in the County shelters. Ms. Combs concluded by
20 urging Council to continue working with the SPCA. She stated, "I think the City is very fortunate to
21 have this program. You are fortunate to not have the problems that other cities have."

22
23 Council Member Abraham asked for statistics on how many animals the SPCA removed from the City
24 in a year. Ms. Combs said that she did not have that information. She noted that many citizens have
25 called wanting the SPCA to take their animals but that the SPCA does not take "owner give ups", the
26 animals in the kennel are brought in by Animal Control personnel. The SPCA has helped citizens place
27 their animals in SPCA foster homes, but that is not part of the Orange City animal control process.

28
29 Council Member Abraham remarked that he visited the kennels yesterday but the animals had been
30 removed due to the weather. Ms. Combs explained the animals are removed during cold weather and
31 storms. Council Member Abraham asked if there were enough facilities to keep the animals throughout
32 the year. Ms. Combs responded that she believes there is enough space. She reiterated that the animals
33 are put in foster homes when it is cold and that most of them are still in foster homes at this time.
34 Council Member Abraham stated, "I am glad that you are here today because now we hear both sides of
35 the story and this is the best time for us to make a decision after having heard from Ms. Salli Combs."

36
37 Charlotte Jones, 604 Lantern Lane came forward and stated that she is present to support Salli Combs.
38 Ms. Jones spoke in favor of maintaining the SPCA agreement. She remarked that she is aware of the
39 changes taking place in surrounding cities and noted that she is opposed to the two resolutions on the
40 agenda tonight regarding this matter. Ms. Jones said that the Orange City animal control program is an
41 example of what other cities would like to have. Many surrounding cities are changing their animal
42 control programs and choosing to work with private rescue groups such as the Animal Rescue
43 Consortium (ARC) as well as establishing sanctuaries for feral cats. Ms. Jones stated that euthanizing
44 strays has not worked to control the animal population and it is not economically feasible. The idea of
45 trapping, neutering and returning works and reduces the stray populations. She detailed the history of
46 this program. Ms. Jones urged Council to continue to work with the SPCA to find solutions to some of
47 the "glitches." She suggested a three-month study period to find ways to solve the problems, such as

1 collecting a deposit for traps that are provided for animal removal and perhaps renovating the City
2 kennel by adding heat so that the animals do not have to be moved during sub-freezing weather.

3
4 Suzie Peace, 1571 Alonson Drive, came forward and stated that she is here as an ordinary citizen. She
5 said that she agrees with what Ms. Combs and Ms. Jones said. It costs approximately \$82 to euthanize a
6 cat, or dog and it can cost as little as \$25 to neuter them. She remarked that is a huge savings to the
7 taxpayers. Ms. Peace stated, "Out of the two, I would prefer having animals neutered and adopted out,
8 or just kept alive."

9
10 Laurel Price, 1715 Oak Terrace came forward and stated that she has lived in Orange City since 1987
11 and that the problems with feral cats started around 1995. Ms. Price said that she is still having
12 problems with feral cats in her neighborhood. She said that she lives with her 87-year mother and today
13 she had a cat in the house and had to chase it out. After the last Council meeting, she received a broken
14 crate and it took two weeks to have it picked up. She acknowledged that when she cannot reach Animal
15 Control she contacts the Mayor or the City Manager's office. She said I have had animals left in cages
16 for over 48 hours because the SPCA had refused to come out and pick them up. Ms. Price noted that
17 Ms. Combs has a full time job in DeLand. She stated, "I don't think you can do this and work full
18 time." Ms. Price said that she is "really upset" and wants something done.

19
20 Mr. Murray spoke on behalf of Ms. Combs. He said that he has known her since he came to Orange
21 City and that he finds her to be a hardworking, very conscientious individual. He acknowledged there
22 have been many problems with animal control. He said the City has a contract with a private company
23 and has limited control. Its frustrating when citizens call the City and all that can be done is call the
24 SPCA and ask them to handle the matter. Mr. Murray said Council directed him to come up with some
25 alternatives and he has presented them. The Humane Society is not the only option. The City could
26 enter into a separate agreement with the SPCA. He suggested that staff could respond to citizen calls
27 and possibly contract with the SPCA to handle the animals once captured. Mr. Murray advised a
28 combination of options must be used to address the issue.

29
30 Mayor Strickland said that he was aware of the County spay and neuter program and that many of the
31 east side cities are participating in the program. Mr. Murray said if the Council decides to participate in
32 the County program, ordinances mandating spaying and neutering; strengthening the City's leash law
33 and higher penalties for running dogs would be presented to the Council. He said the Humane Society
34 is the last resort. Mr. Murray stated, "What we don't want to do is get in the dog pound business."

35
36 Council Member Mahoney noted that concerns had been expressed about the level of service and what
37 becomes of the trapped animals. He suggested that the City Manager meet with Ms. Combs and discuss
38 resolutions to these issues. He said that may mean the City does not have to destroy animals to provide
39 service. Council Member Mahoney stated, "I do not think these two concerns are at odds, however, if
40 this contract is cancelled then perhaps they will be." Council Member Mahoney questioned what the
41 city will do with the animals if the SPCA contract is cancelled,

42
43 Chief Baskoff, Police Department came forward and pointed out that the animal control contract is with
44 the SPCA, not Ms. Combs, to pick up animals and to respond to our citizen's complaints. He said there
45 have been numerous calls from citizens attempting to reach the SPCA. Cancellation of the contract is
46 just stating that the City is going to take over the pick up of the animals and address the citizen's
47 complaints. The following agenda item 7B authorizes the City Manager to enter into a contract with the
48 Humane Society and New Smyrna Beach. Chief Baskoff said that does not mean that City must take

1 animals there, however, it is not an option if the contract is not authorized. The City could still enter
2 into a contract with the SPCA so that the animals are not euthanized. He suggested that the City could
3 pay the SPCA for each animal that is taken from the City. Chief Baskoff said that right now, the City is
4 not authorized to pick up the animals, therefore, when citizens call all that can be done is to try to
5 contact the SPCA. In response to a question from Council Member Sherrill, Chief Baskoff said that he
6 would prefer that animal control be an in-house function because it would provide better control and the
7 City can respond quickly to citizen concerns.

8
9 Council Member Sherrill said that he has been on Council for eight years and this matter has been
10 discussed on several occasions. He said that the number one problem is that the SPCA does not get
11 back to the citizen and many times the Police Dept. is asked to solve the problem. He said that if the
12 City has a contract with someone they need to be held accountable. There is no excuse for them not
13 returning people's calls. He spoke in favor of cancelling the contract and moving in the direction that
14 staff is recommending. He said because the Police Dept. would be involved, the City would do a better
15 job responding to citizens. Chief Baskoff noted that the SPCA contract does not prevent the City from
16 entering into contracts with other facilities such as the feral cat sanctuary. He reiterated there are
17 alternatives.

18
19 Mayor Strickland spoke in favor of the resolution. He remarked that if the contract is cancelled it would
20 not prevent Ms. Combs from meeting with the City Manager and talking about ways to deal with these
21 problems. He said that he would support participating with the County for spaying and neutering
22 services. The Mayor remarked that people do not understand the degree and the length of the frustration
23 involved in trying to solve this matter. Citizens have expressed their desire to keep animals alive and to
24 work with the SPCA. He suggested that passing this resolution would give the City Manager and staff
25 the ability to make some decisions and to move towards a better long-term solution. The Mayor noted
26 that this has been an on going problem and restated his support for the proposed resolution.

27
28 Vice Mayor Allebach remarked that he does not see the comprehensive program being discussed. He
29 said that he agrees that the Police Department responding to citizen calls will give the City better control
30 of the matter. He expressed concerns that the cost for contracting with the Humane Society would
31 include all residents in the 32763 zip code and that Orange City taxpayers would bear that cost. Vice
32 Mayor Allebach said that he would rather see a comprehensive program established before the SPCA
33 contract is dissolved.

34
35 Mr. Reischmann explained that Section 4.5 and 4.9 of the City's code govern animal control. Section
36 4.5 requires that the City either employ or contract for the services of an animal control officer to pick
37 up or pursue animals at-large, which is the purpose of the current contract with the SPCA. Mr.
38 Reischmann stated, "That's what I'm hearing, arguably, is not being done very well at this time." The
39 City is empowered to construct and operate impoundment facilities or to contract with outside
40 organizations for this service. Mr. Reischmann noted that there is nothing in the code which requires
41 the City to contract exclusively with one organization in order to meet its obligations.

42
43 Mayor Strickland noted that if the current contract with the SPCA is cancelled, the City could enter into
44 a new contract with them for different terms. Mr. Reischmann concurred and advised that all the
45 proposed resolution does is authorize the City to provide the required 30-day notice to the SPCA that the
46 agreement is being terminated. He clarified that the City's responsibilities regarding animal control are
47 (1) the pick-up of stray or nuisance animals and (2) the impoundment and disposition of the animals

1 after they are picked up. Mr. Murray expressed his concern that the SPCA may not be able to meet the
2 demand for impoundment services.

3
4 Council Member Mahoney questioned whether there is currently a problem finding boarding for
5 impounded animals. He said that if there is not, he would recommend amending the current contract to
6 remove the responsibility for pick-up of animals but keeping the contract in force.

7
8 In response to Council Member Mahoney's question, Chief Baskoff explained that even if there is not a
9 capacity problem at the present time, there could be because the City may pick up two or three times as
10 many animals. He said that he could not provide a definitive answer at the present time.

11
12 Ms. Combs advised that the SPCA could handle any amount of stray cats that may be involved. She
13 said that they could also provide neutering for \$15.

14 Mr. Murray recommended that the resolution be adopted, noting that it does not preclude negotiating
15 another contract with the SPCA. He also recommended that the Humane Society contract still be
16 executed as an alternative if nothing else is available. Council Member Mahoney expressed his concern
17 over people dropping their unwanted animals off at the Humane Society and the City being responsible
18 for the bill.

19
20 Chief Baskoff spoke of the need for a contract with the Humane Society as a backup to the SPCA just to
21 have an alternative if something happened to the SPCA and they could not provide shelter services. He
22 asked, "If that happens, what do we do with the animals?"

23
24 Council Member Mahoney questioned whether a contract with the Humane Society could provide that
25 animals only be accepted when delivered by authorized personnel from Orange City. Mr. Murray said
26 that he would investigate the matter.

27
28 Mr. Reischmann pointed out that the proposed resolution authorizes a 30-day notice to end the contract.
29 That could provide the City time to arrange a comprehensive animal control program with the SPCA
30 and/or the Humane Society that will address the problems described this evening. Mr. Murray advised
31 that he is adamant that capture of animals be handled by City staff. Mayor Strickland said staff should
32 be equally committed in moving forward a contract for the County spay and neutering program.

33
34 **Motion passed by a 4/2 roll call vote of the Council with Council**
35 **Member Abraham and Vice Mayor Allebach voting "no".**

36
37 **B. RESOLUTION NO. 523-09:** A resolution of the City of Orange City,
38 Florida, authorizing the appropriate officials of the City of Orange City to
39 execute a contract for animal control services between the City of Orange
40 City and the Southeast Volusia Humane Society, repealing all resolutions
41 in conflict herewith and providing for an effective date.

42
43 Vice Mayor Allebach read the title of Resolution No. 523-09 into the record.

44
45 **Council Member Sherrill moved to adopt Resolution No. 523-09,**
46 **seconded by Council Member Laputka.**
47

1 Chief Baskoff advised the purpose of Resolution No. 523-09 is to authorize the City Manager to enter
2 into a contract with the Southeast Volusia Humane Society. Mr. Murray said the contract does not
3 require immediate action. Staff may be able to come back with a better plan but that the Resolution is
4 required so that he could begin negotiations.

5
6 Mayor Strickland noted the contract does not have complete information and requested that the contract
7 be brought forth once it is complete. Mr. Reichmann said that this is a standard “off the shelf” contract
8 and may contain ambiguities that could lead to expenses the City may not have anticipated. He said the
9 Resolution is required for the City Manager to negotiate a contract. However, the reference to “Exhibit
10 A” in Section 1 of the Resolution, would limit the negotiations to the Humane Society. Council
11 Member Mahoney pointed out that the agreement does not address the terms or the issues raised this
12 evening.

13
14 As a point of order, Mayor Strickland noted there is a motion on the floor and questioned the best
15 procedure. Mr. Reischmann detailed the options noting the Council could pass, vote down or table the
16 Resolution until a later time.

17
18 Vice Mayor Allebach expressed his concerns with entering into this contract. He felt that the response
19 to citizen complaints makes perfect sense but that he questions the need for a contract with the Humane
20 Society. Vice Mayor Allebach spoke in favor of renegotiating a contract with the SPCA because of the
21 concerns of several citizens regarding euthanization. He suggested that the SPCA programs could help
22 with the endeavor. He said that he could not support the resolution as written.

23
24 Council Member Abraham concurred with Vice Mayor Allebach, stating, “We have already voted
25 against the other Resolution and I am not in favor of this Resolution.”

26
27 **Motion was defeated by with a unanimous 0/6 roll call vote of the**
28 **Council.**

29
30 Mr. Reichmann noted that the Council has give direction to the City Manager to follow tonight’s
31 discussion and talk with the appropriate entities about how to deal with animals once they are trapped.

32
33 **C. RESOLUTION NO. 524-09:** A resolution of the City of Orange City,
34 Florida, approving a Joint Project Agreement with the Volusia County
35 School Board for reimbursement of the installation of a waterline within a
36 portion of South Sparkman Avenue between Ohio Avenue and Rhode
37 Island Avenue; repealing all resolutions or parts of resolutions in conflict
38 herewith; and providing for an effective date.

39
40 Vice Mayor Allebach read the title of Resolution No. 524-09 into the record.

41
42 **Council Member Mahoney moved to adopt Resolution No. 524-09,**
43 **seconded by Council Member Sherrill.**

44
45 Jim Kerr, City Planner, came forward and provided a power point presentation detailing the proposed
46 project (a copy of which is attached and becomes a permanent part of these minutes). Noting there had
47 been no changes to the project, he showed an aerial view of the proposed water lines pointing out the
48 location of the elementary, middle and high schools. Mr. Kerr stated that extending the water line on

1 South Sparkman Avenue and connecting it to West Rhode Island Avenue would provide adequate water
2 service to the new high school and the proposed Sparkman Ridge Subdivision. This Resolution would
3 authorize execution of a Joint Project Agreement (JPA) with the Volusia County School Board (VCSB)
4 stipulating that the City would reimburse VCSB for installation of a water line extension on Sparkman
5 Avenue. Mr. Murray concurred noting the installation of the water line and the construction of the road
6 is a requirement of the Sparkman Ridge Developer's agreement. The cost is projected at \$110,000 and
7 is part of the special assessment district requested by the developer. Mr. Reichmann commented that
8 because the water system would be available to serve the subdivision when it is built, the construction
9 cost could be included in the special assessment district.

10
11 Council Member Mahoney questioned whether the \$750,000 in the previously approved loan document
12 includes the \$110,000 for this project. Mr. Murray responded in the affirmative. Council Member
13 Mahoney questioned the terminology in the agreement which references the "City's Road Work." Mr.
14 Kerr responded that two projects are happening simultaneously, one is the road work which was
15 approved previously and this one is with the School Board for the water line construction. Council
16 Member Mahoney reiterated that "road work" should not be a part of this resolution since the total cost
17 of \$110,000 refers only to the water line construction. Mr. Reischmann concurred that the last
18 "Whereas" should read as follows:

19
20 Whereas, School Board acknowledges that City and County have entered into a Joint
21 Project Agreement to accomplish the objectives related to City's Road Work; and"

22
23 Council Member Mahoney maintained that reference to the road work should not be included in this
24 resolution as it deals only with the \$110,000 contemplated for construction of the water line. Mr.
25 Reischmann concurred and advised that the language referring to the "Road Work" should be stricken
26 leaving the clause to read as follows:

27
28 Whereas, the term "costs necessary for completion of City's Water Line Work" include
29 the entire amount to be paid by City to School Board properly attributed to construction
30 of City's Water Line Work; and"

31
32 Mr. Reischmann restated the amended motion as follows: To approve the resolution with the
33 revised contract (JPA) attached thereto.

34
35 **Motion passed by a unanimous 6/0 roll call vote.**

36
37 **D. RESOLUTION NO. 525-09:** A resolution expressing the intent of the
38 City of Orange City, Florida to fund certain expenditures made with
39 respect to the cost of synchronizing the traffic lights in the general area of
40 Harley Strickland Boulevard and Threadgill Place; providing for the
41 funding from the undesignated fund balance in an amount not exceeding
42 \$100,000 to pay the costs of such project; and providing an effective date.

43
44 Vice Mayor Allebach read the title of Resolution No.525-09 into the record.

45
46 **Vice Mayor Allebach moved to adopt Resolution No. 525-09, seconded**
47 **by Council Member Laputka.**
48

1 Mr. Murray recalled that this matter had been discussed in detail at the last Council meeting. He
2 advised that the \$100,000 stated in the Resolution is a maximum amount and could possibly end up
3 somewhat lower.

4
5 Council Member Mahoney said that he agreed that the City should fund some of the costs associated
6 with this project, however he hoped the City's portion would be less than the maximum amount
7 stipulated in the agreement. Council Member Laputka concurred.

8
9 Mayor Strickland suggested that the City Manager keep the costs of the project to a minimum and not to
10 exceed the maximum amount. In response to a question from Mayor Strickland, Mr. Murray said that
11 five traffic lights are involved. Council Member Laputka noted that the synchronization of the traffic
12 lights ties the mall into a sequence from Saxon Blvd. to Enterprise Road. He stated, "It's a time mover."
13 Council Member Laputka stated that the City was responsible for the changes and should be responsible
14 for some of the costs associated with the consequences.

15
16 Council Member Sherrill said that he agreed with Council Member Laputka. Vice Mayor Allebach said
17 that originally he wanted to support \$50,000. He spoke in favor of supporting the City Manager in this
18 project. Council Member Abraham suggested the costs not exceed \$75,000.

19
20 **Motion passed by a 6/0 roll call vote of the Council.**

21
22 **8. DISCUSSION AND ACTION:**

23
24 A. Discussion and Action Regarding the Results of the Request for Proposals for Financing
25 of the Sparkman Avenue Extension

26
27 Jeff Larson, D.A. Davidson Investment Bankers came forward and stated that a Request for Proposal
28 (RFP) seeking financing for the Sparkman Avenue project was issued to 19 banks. A summary memo
29 of the responses was provided to Council (a copy of which is attached and becomes a permanent part of
30 these minutes). Mr. Larson advised that staff sought the longest term and the lowest interest rate
31 possible. Three banks, Branch, Bank & Trust (BB&T), Compass Bank and Wachovia, responded. Mr.
32 Larson said he is recommending BB&T because they offered the strongest proposal with a 16 -year term
33 commitment at a 4.05% interest rate. He noted that interest rate is well below the National Securities
34 Clearing Corporation (NSCC) rate. Mr. Larson said that he had a long meeting with the developer and
35 the details will be discussed at the February 10th Council meeting. He explained that the total cost of the
36 project equals the assessment and that the developer plans to pass the cost onto the new homeowners
37 once development begins. It is a mutually beneficial transaction for the City and the developer. Mr.
38 Larson advised that he needs Council's authorization to initiate loan documents with BB&T. He
39 reminded Council that BB&T was the bank that previously provided a loan for the City in a similar
40 competitive process.

41
42 Council Member Abraham asked Mr. Davidson to explain the Summary of Bank Proposals spreadsheet.
43 He asked what is a BQ? Mr. Larson responded that BQ means "bank-qualified." He said in 1986
44 Congress changed the tax laws related to lending government entities tax-exempt money. If a
45 government has debt under \$10,000,000 in any calendar year, the debt becomes bank-qualified, which
46 means a bank can buy the note or bond debt and not pay taxes on the interest. As a result, the bank
47 could reduce the interest rate. Mr. Larson said that since the City's loan is for \$750,000, it is bank
48 qualified.

1 Council Member Abraham questioned the criteria for choosing the 19 banks. Mr. Larson responded that
2 staff used a list of banks that were previously sent RFP's on behalf of the City. He noted that a number
3 of the local banks did not respond. He said this is a complicated loan and many smaller institutions do
4 not have personnel trained to administer the loan.
5

6 Council Member Abraham questioned borrowing this amount of money in today's economic times. Mr.
7 Larson responded this loan meets with what the City wants to accomplish. The land in question is
8 critical to the City's transportation network and the schools in that area. When the land is developed it
9 will increase the City's tax roll, and when the homes are built they will connect to the City's water and
10 wastewater systems. If the City partners with a private company, the City is able to lend its ability to get
11 money cheaper. It is a win-win situation. Mr. Larson stated, "I strongly encourage this." Governments
12 today are finding good quality private sector clients to partner with to make sure that growth continues
13 to happen. Mr. Larson stated, "I believe that it is the duty of governments to do that."
14

15 Council Member Abraham questioned the risks associated with a special taxing district. Mr. Larson
16 responded the risk is that the developer will not pay the tax assessment. He explained if the taxes are
17 not paid, the assessment would be sold in a tax certificate sale similar to other ad valorem taxes. Mr.
18 Larson said it is unlikely the developer would default because he has already invested a lot more than
19 the cost of the loan in the land.
20

21 Vice Mayor Allebach, and Council Member Sherrill spoke in favor of the loan.
22

23 **Council Member Laputka moved that the City Council authorize the**
24 **City Manager to execute the committal of BB&T and to proceed in**
25 **preparing documents for Council review at the February 10th, Council**
26 **Meeting seconded by Vice Mayor Allebach.**
27

28 Council Member Mahoney noted the other options have balloon payments and that could be problematic
29 at the time of maturity. Mr. Larson agreed noting Florida statute does not allow that practice.
30

31 **Motion passed by a 6/0 roll call vote of the Council**
32

33 B. Report on Legal Bills
34

35 Mr. Murray advised that Council Member Abraham requested that copies for legal fees incurred during
36 the first quarter of the fiscal year be provided for Council's review.
37

38 Mayor Strickland said that he found the information very helpful. He suggested that the City Manager
39 keep the Council informed. Mr. Murray noted that Council Member Abraham discovered an error in
40 one of the invoices from Cobb & Cole which resulted in a \$4,500 adjustment to their bill.
41

42 Mr. Murray noted that staff reviewed the attorney bills for the first quarter of the fiscal year and the last
43 quarter of the calendar year and noted there was a spike in activity. He assured Council the City is not
44 spending that amount annually. He said the increase was due to a lot of action with GEL, and
45 preparation for the workshops and meeting with the Department of Environmental Protection.
46

47 Council Member Abraham thanked Mr. Murray for his acknowledgment. He said since the last budget
48 meeting he had maintained the City legal fees could be reduced by approximately \$100,000. He spoke

1 in favor of monitoring the legal invoices on a regular basis. Council Member Abraham stated, "I's sorry
2 to say this because I have worked with some other attorneys in Florida and I have raised my doubts and
3 questions to them to. So this is without any prejudice to any attorney working for us." He noted that a
4 great deal of time was spent doing research and telephone calls. He said Mr. Reischmann's contract has
5 not been reviewed for some time and suggested that the City Manager makes that a priority. He stated,
6 "I have more questions that I can ask at anytime, now that you have all agreed that this monthly report
7 can be used to show the legal expense."

8
9 Council Member Mahoney stated, "I just had a concern about incurring additional legal fees in response
10 to asking the attorneys why they conducted the research. I don't support that."

11
12 Mr. Reischmann said he had worked for the Orange City Council since 1999. He said that he responds
13 to the City Manager, Department Heads and the Council and carefully documents his time. Mr.
14 Reischmann stated, "I would hope that there is not a concern that my bills are too vague or too
15 complete, it's just a function of \$150 an hour multiplied by the hours that I have been asked to spend.
16

17 Mr. Reischmann said he received an email from Council Member Abraham about GEL and that he
18 answered his questions as best as he could. He explained that GEL has been one of the most expensive
19 litigations that the City has had to endure. Mr. Reischmann advised that several years ago, he
20 recommended that the City retain the services of Cobb & Cole because of the unique circumstances the
21 City faced at the time and some emergency problems the City was facing with regards to the GEL
22 litigation. Mr. Reischmann said that he believed that he made the right decision to retain the law firm.
23 He detailed the projects that Cobb & Cole had worked on such as dealing with the GEL matter and
24 working with the Department of Environmental Protection to close the GEL facilities. He said there are
25 several other issues pending that he had been researching that are related to the ongoing potential
26 mediation of the GEL site. It has to do with ownership of the rights of way so that the City can be
27 prepared if ever a claim is brought against the City by GEL. Mr. Reischmann reiterated that he is
28 available to answer any questions that Council Member Abraham may have. He stated, "I don't want
29 any implication that we are trying to hide anything because we are not. We spell out exactly what we do
30 on all our bills, always have, and always will."

31
32 Mayor Strickland said that there were several issues that he was not aware of. He said that he discussed
33 the matter with Mr. Murray. Mayor Strickland said that he hopes that Council Member Abraham would
34 speak with the City Manager before contacting Mr. Reischmann and incurring an expense.
35

36 Council Member Abraham noted some instances where some citizens have contacted the attorney
37 directly when they could have gone to the City Manager. He stated, "That is a concern." Council
38 Mahoney noted that is a problem that has been experienced in the past as well.
39

40 Vice Mayor Allebach said that he had no problems with the legal invoices, but recommended that
41 Council find ways to reduce the City's legal fees.
42

43 C. Set Date for Workshop on Personnel Policies and Procedures Manual 44

45 Mr. Murray advised there are no time pressures to review the Personnel Policies and Procedures
46 Manual. He said that the major changes are in the sexual harassment policies. The City engaged
47 additional legal advice to incorporate the new laws and rulings. Mr. Murray stated that if there is an
48 incident, the City would not be fully covered until the manual is adopted by ordinance. He said the

1 remaining changes are ministerial and deal with clarifying some of the gray areas. Mayor Strickland
2 questioned if the sexual harassment section could be reviewed separately. Mr. Murray responded in the
3 negative, stating that the policy manual must be adopted in its entirety. Mr. Reischmann said there are
4 several other changes that must be reviewed. He suggested that a presentation from staff may take
5 approximately 2 hours. Council Member Mahoney noted that at the last meeting there was discussion
6 about holding only one meeting a month, he suggested that the second meeting could be scheduled as a
7 workshop. Mr. Murray said the special assessment taxing district is moving forward rapidly and the
8 meetings in February may be required to finalize the matter. He said he would see if the workshop
9 could be scheduled for the second meeting in March.

10
11 **9. NEW BUSINESS:**

12
13 Mayor Strickland requested that the Chairman from the Orange City Historic Preservation Board come
14 before the Council at a future meeting and give a brief report of the Board's activities and their plans for
15 the next budgetary year.

16
17 **10. REPORTS**

18
19 a. City Manager

20
21 Mr. Murray reported that staff had cleaned right of ways around Mill Lake and the surrounding
22 properties. He said that he was available to answer any questions.

23
24 Mr. Murray urged the Council Members to continue to call his office when requiring information stating
25 that it works quicker and simpler that way.

26
27 b. Mayor/City Council

28
29 Vice Mayor Allebach reported on the Volusia County of Governments (VCOG) meeting. He said the
30 discussion was a continuation of previous meetings centering on funding for education and the need to
31 lobby the legislature not to cut funding for schools. The Mayors are requesting that the cities lobby the
32 County to stop the reduction of funding for education. The theme is a quote by the Mayor of Holly Hill,
33 "The E in education is also the E in Economic Development" and the State is short changing economic
34 growth by not funding education. Vice Mayor Allebach said that Dr. Margaret Smith, Superintendent of
35 Volusia County Schools presented a power point presentation "C.A.R.E. Consolidation and
36 Regionalization for Efficiency" from the League of Cities that had a lot of information about the
37 education system. He asked the City Clerk to provide an electronic copy for the Council. The Vice
38 Mayor advised that VCOG is partnering with the Volusia County Chamber of Commerce to fund buses
39 to Tallahassee on April 1st, Volusia Days, to present our concerns. In addition, the cities were asked to
40 prepare a resolution condemning the legislature for cheating the County on the educational system. He
41 provided an example to the City Manager and asked that it be prepared for the next Council meeting. In
42 response to a question from Mayor Strickland, the Vice Mayor commented that he was not able to attend
43 the Metropolitan Planning Organization meeting today.

44
45 Council Member Sherrill said that he has provided information to Council on the Water Authority of
46 Volusia (WAV) activities. He said there are a lot of things going on with regard to the water situation.
47 The biggest issue is that the St. John's River Water Management District (SJWMD) is considering
48 penalizing cities for using irrigation, storm and reclaimed water and charging the usage to a

1 municipality's consumptive use permit (CUP). Council Member Sherrill remarked it is not legal. He
2 argued the water does not come from the river so the SJWMD should have no jurisdiction in the matter.
3 The cities in Volusia County have complained and as a result, the SJWMD has removed the issue from
4 the agenda. Other issues discussed were the funding for the Coquina Coast and the Yankee Lake
5 Projects. It is hoped that money from the bail-out packages will filter down from Tallahassee so that
6 these projects can move forward. Mr. Reischmann noted these two projects are moving forward. The
7 Coquina Coast project is in the early preliminary stages. A substantial amount of money has been
8 expensed to begin a phase one study to determine whether the project would be land or ship based. Mr.
9 Reischmann commented this project will be completed in 10-15 years. He said the Yankee Lake Project
10 involves Seminole County. Seminole County won its litigation and is moving forward with taking
11 surface water from the St. John's River and treating it to create additional potable water as an alternative
12 water source. Mr. Reischmann said that conservation also is another tool to try to address these
13 anticipated demands on the City of Orange City.

14
15 Council Member Mahoney questioned the rationale for county reclaimed water in the CUP. Mr. Murray
16 responded it would show overall usage of water. He said the whole idea is that it is not being taken out
17 of the ground.

18
19 Mayor Strickland gave a brief report on the meetings with the business owners along the U.S. 17-92
20 corridor. He said there have been three meetings and another is scheduled for tomorrow night. At the
21 first meeting there were a total of 12 people present. The meeting began with a dialogue between some
22 of the business owners and the City. Some of the business owners present expressed concerns that there
23 had been no contact from elected official. Many expressed their desire to have more exchange and
24 dialogue. He said there were a number of issues discussed, particularly the River of Lake Heritage
25 Corridor program and how it might affect the businesses and how they could participate in the process.
26 Paul Johnson, Public Works Director, came to the meeting last week and showed the landscape plans for
27 the Department of Transportation project. Mayor Strickland said that he plans to continue with small
28 meetings of 12 people or less so that everybody would get a change to speak and let their ideas be
29 known. He said that he would report back to Council with his progress.

30
31 c. City Clerk

32
33 No further report.

34
35 d. City Attorney

36
37 Mr. Reischamnn gave a report on the pending Tel-Connect matter and the legal issues going on in north
38 Florida. He said the City is waiting for the company to do what they promised in the settlement
39 agreement. He said that the pending cases in Escambia County about video gaming would go to trial in
40 the spring. An expert was hired and will testify on behalf of the local governments. He thanked Chief
41 Baskoff for providing the information. In the immediate future the cities in Volusia County will go to
42 the State Attorney's office to prevail upon them to take a more aggressive stance on behalf of the cities.

43
44 **11. APPROVAL OF MINUTES:** January 13, 2009 Regular Meeting

45
46 **Council Member Mahoney moved to approve the minutes of the**
47 **January 13, 2009 meeting, seconded by Council Member Laputka and**
48 **passed by a unanimous 6/0 voice vote of the Council.**

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12. COUNCIL COMMENTS

Council Member Abraham said that this was the first time that he attended the Manatee Festival and that he had a good time.

Vice Mayor Allebach thanked all City employees for who worked at the Manatee Festival. He said the support and participation was “extraordinary.” He said that volunteers collected demographic information from everyone who came to the Manatee Festival. He said it was the best festival since 2001. The Vice Mayor estimated that 7,000 people attended the festival. On Sunday, Blue Springs Park had to close at 2:15 p.m. because the parking lot was full. The Little League raised \$700 a day, both days. An inflatable play area and face painting for kids was provided at no charge. Vice Mayor Allebach thanked all the Council Members that came out. He stated, “I cannot say enough.”

Mayor Strickland said that he turned on Channel 2 news this morning and heard a promo for Orange City’s Arbor Day celebration in Dickinson Park. He said that was great publicity. Fifty children from the Mid-Florida Head Start came out and helped plant a tree. Pictures of the event should be on the web site shortly. The Beacon was present and the photographer took pictures. Council Member Laputka read a proclamation. The Mayor stated, “It was a very successful event, I was really pleased with it.” He thanked Council Member Laputka for assisting.

Council Member Sherrill congratulated Vice Mayor Allebach for a job well done with the Manatee Festival. He said Johanna Knox asked him to tell the Council how much they appreciated the efforts. Council Member Sherrill stated, “It was the best participation that I’ve seen in a long time and the biggest crowd ever witnessed and it was a beautiful weekend for it.”

Council Member Laputka thanked Council Member Sherrill, the Mayor and the Vice Mayor for attending the various committee meetings and reporting to the Council. He stated, “We all have busy schedules and those extras meetings are extensive.”

13. ADJOURN

There being no further business, Mayor Strickland adjourned the meeting at 9:41 p.m.

RESPECTFULLY SUBMITTED:

APPROVED ON:

Gloria Williams
Deputy City Clerk

February 10, 2009