

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,
2 Florida, held on Tuesday, October 13, 2009 at 7:00 p.m. in Council Chambers, 201 N. Holly
3 Avenue, Orange 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, Paul Rasch; Jim Mahoney; City Attorney William Reischmann;
13 Interim City Manager Chester Murray; City Clerk Deborah Renner

14
15 **INVOCATION**

16
17 The Invocation was given by Reverend Phyllis Bartle, St. Jude Episcopal Church followed by the
18 Pledge of Allegiance.

- 19
20 1. **ABSENCES:** None at this time
21
22 2. **PRESENTATIONS:** None at this time
23
24 3. **CITIZEN COMMENTS:** None at this time
25
26 4. **CONSENT AGENDA:** None at this time.
27
28 5. **ORDINANCES – FIRST READING:**

29
30 A. **ORDINANCE NO. 406:** An ordinance of the City Council of the City of
31 Orange City, Florida; establishing guidelines for compliance with the
32 National Pollutant Discharge Elimination System set by the United States
33 Environmental Protection Agency; guiding, regulating and controlling illicit
34 discharges to the City's MS4 Stormwater System; providing for codification,
35 conflicts, severability and an effective date.

36
37 Vice Mayor Allebach read the title of Ordinance No. 406 into the record.

38
39 **Council Member Sherrill moved to approve Ordinance No. 406,**
40 **seconded by Council Member Laputka.**

41
42 Mr. Johnson noted that a revised version of Ordinance No. 406 containing changes requested by the
43 City Attorney had been distributed.

44
45 Mr. Johnson noted that a provision had been added to the last "Whereas" clause directing that the
46 ordinance be codified into Chapter 7, Health & Sanitation, of the city code. In addition, a definition

1 has been added for "Special Master" as it is referenced a number of times throughout the ordinance.
2 Finally, the Section on severability was moved from the middle of the ordinance to the end.

3
4 Mr. Johnson stated that this Ordinance has been mandated as part of the City's stormwater permit.
5 This is the second of two ordinances required to be adopted. The ordinance addresses issues such as
6 putting toxins or pollutants in storm drains. Mr. Johnson stated that most of the City's stormwater
7 system is "closed basin," consisting mostly of swales and retention areas and exfiltration systems.
8 He suggested that this ordinance will really come into play when the City takes over Mill Lake and
9 the drainage system for 17-92. Mr. Johnson stated, "This will be a very worthwhile tool for us to
10 have in our tool box."

11
12 In response to a question from Council Member Laputka, Mr. Johnson stated that the wheels are still
13 in motion for the City to take over Mill Lake, but all of the approvals have not been received as yet.
14 He stressed that it is moving forward.

15
16 Council Member Abraham asked Mr. Johnson to verify that currently no illicit connections to the
17 sewer system exist. He asked whether the Code Enforcement Magistrate would have the necessary
18 knowledge to preside over any potential issues regarding this which may present themselves or
19 whether an expert would have to be hired. Mr. Reischmann responded that the Special Magistrate
20 acts in the capacity of a hearing officer much as a judge would. His job would be to hear the
21 evidence presented in the case by City staff.

22
23 Mayor Strickland said that for a while, he noticed that drains were being labeled. He asked what
24 happened to that program. Mr. Johnson said that as part of the stormwater permit process, the City
25 was required to do community outreach and a group from the Presbyterian Church assisted with
26 labeling the drains. The program will be maintained on an ongoing basis.

27
28 **Motion passed by 6/1 roll call vote of the Council with Mayor**
29 **Strickland voting "no."**

30
31 Council Member Abraham asked Mayor Strickland why he voted "no." Mayor Strickland responded
32 that he is opposed to unfunded mandates and it is his way of protesting against it. Council Member
33 Abraham noted that this is a state mandate. Mayor Strickland responded, "I understand but I don't
34 have to like it."

35
36 **6. PUBLIC HEARING/ORDINANCES – SECOND & FINAL READING:** None at this
37 time

38
39 **7. RESOLUTIONS:**

- 40
41 A. **RESOLUTION NO. 568-09:** A resolution of the City Council of the City of Orange
42 City, Florida, acknowledging the Breezewood Village Condominium Annexation
43 Report setting forth the plans to provide urban services to the Breezewood Village
44 Condominiums, located at 101 Grand Plaza Drive, Orange City, Florida; authorizing
45 the City Manager and the City Clerk to file said report with the County Council of the
46 County of Volusia, Florida, prior to the January 19, 2010 Annexation Referendum;

1 repealing all resolutions or parts of resolutions in conflict herewith; and providing for
2 an effective date.

3
4 Vice Mayor Allebach read the title of Resolution No. 568-09 into the record.

5
6 **Council Member Laputka moved to adopt Resolution No. 568-09,**
7 **seconded by Council Member Sherrill.**

8
9 Jim Kerr, City Planner, came forward and introduced three members of the Breezewood Village
10 Condominium Association (CA) who were present in the audience. Mr. Kerr said that staff met with
11 members of the CA at their request to discuss the benefits of annexing into the City. The board felt
12 that it would be in the best interests of the residents to be a part of the City.

13
14 Mr. Kerr said that this is the beginning of an annexation process which will end on January 19, 2010.
15 He provided a power point presentation showing the location of the development. The development
16 consists of 112 units encompassing 11.5 acres with a population of 131. Mr. Kerr advised that the
17 annexation will have minimal impact on City resources. He noted that the development is for
18 seniors.

19
20 Mr. Kerr advised that an ordinance will be presented to Council on November 10th and December 8th
21 and the referendum is planned for January 19th. He noted that there are a number of statutory
22 requirements which must be met by staff prior to the referendum.

23
24 Mr. Murray clarified that staff chose to pursue a referendum because a voluntary annexation petition
25 would require the approval of 100% of the property owners. The referendum method only requires
26 approval of a 50% plus 1 majority of those voting. He said that of the people present at the meeting
27 attended by staff, there was unanimous approval among those present in favor of the annexation.

28
29 Council Member Sherrill noted that it is a very well-maintained community.

30
31 Council Member Abraham noted that less than 50% of the residents attended the meeting with City
32 staff, and he questioned whether the majority would support the annexation. Mr. Kerr responded
33 that a number of residents are seasonal and were not in town, however, they would be receiving a
34 ballot to vote on the annexation. He said that the Board is confident that there will be more than
35 50% in favor of the annexation.

36
37 Council Member Mahoney questioned whether there would be any potential conflict with the current
38 solid waste contract in the development and the City's long term plans to integrate residential and
39 commercial solid waste service. He stated, "Specifically, we have had the renewals of our contracts
40 staggered in such a manner such that we'll have a clean slate in a year or two. Is there a problem
41 here?" Mr. Murray responded that the current contract is with Emerald Waste, so there should not be
42 an issue.

43
44 **Motion to adopt Resolution 568-09 passed by unanimous 7/0 roll call**
45 **vote of the Council.**

46

- 1 **B. RESOLUTION NO. 569-09:** A resolution of the City Council of the City of Orange
2 City, Florida, adopting the Volusia County Metropolitan Planning Organization's
3 (MPO) Transportation Impact Analysis Methodology; repealing all resolutions or
4 parts of resolutions in conflict herewith; and providing for an effective date.
5

6 Vice Mayor Allebach read the title of Resolution No. 569-09 into the record.
7

8 **Council Member Laputka moved to adopt Resolution No. 569-09,**
9 **seconded by Council Member Sherrill.**
10

11 Mr. Kerr came forward and stated that the MPO understands the need to have a methodology that is
12 consistent and compatible with all jurisdictions. He discussed the methodology which is currently in
13 place, advising that a developer must provide a "Traffic Impact Analysis" at the time plans are
14 submitted to the City. An additional analysis using a different methodology must be provided to the
15 County. A third analysis using yet another methodology must be provided to the Department of
16 Transportation (DOT). Adoption of the proposed new methodology will combine the three existing
17 into one standard methodology that will be used county-wide.
18

19 Mayor Strickland noted that each City previously had their own method of doing Traffic Impact
20 Analysis and that after several years of work, agreement has been reached on a common method
21 acceptable to all involved parties. He stated, "It's a really good thing."
22

23 Mr. Reischmann said that Orange City is one of the last jurisdictions in the County to adopt the
24 methodology. He noted that adoption of the MPO methodology is a requirement for the City to
25 remain eligible for federal funding of transportation improvements.
26

27 **Motion to adopt Resolution No. 569-09 passed unanimous 7/0 roll call**
28 **vote of the Council.**
29

- 30 **C. RESOLUTION NO. 570-09:** A resolution of the City Council of the City of Orange
31 City, Florida, clarifying the role and responsibilities of the Citizens Alternative Water
32 Advisory Committee; confirming their establishment as a fact-finding committee
33 only; repealing all resolutions or parts of resolutions in conflict herewith; and
34 providing for an effective date.
35

36 Vice Mayor Allebach read the title of Resolution No. 570-09 into the record.
37

38 **Vice Mayor Mahoney moved to adopt Resolution No. 570-09,**
39 **seconded by Council Member Rasch.**
40

41 Mr. Reischmann noted that he was asked to prepare this resolution in response to feedback from
42 committee members that they were feeling constrained in their work. He said that the committee
43 was interested in forming subcommittees and being able to talk among themselves. Mr. Reischmann
44 said that an Attorney General opinion advised that as long as the committee remains in a fact-finding
45 capacity only, they are not subject to the requirements of Chapter 286.011 Florida Statutes and they

1 can have the flexibility they desire. Mr. Reischmann advised that he felt it would be prudent to
2 adopt this resolution clarifying the role of the committee.

3
4 Council Member Rasch stated that he felt the changes are “perfect.”

5
6 Council Member Mahoney questioned the status of the Council Members Elect who are members of
7 the committee. Mr. Reischmann said that he had previously issued a memo advising them that the
8 sunshine laws do apply to them and noting the concern that issues the committee is addressing could
9 come back before them as members of the Council.

10
11 Council Member Laputka urged the Council Members Elect to find a replacement to serve on the
12 committee if they feel they should step down.

13
14 **Motion to adopt Resolution No. 570-09 passed by unanimous 7/0 roll**
15 **call vote of the Council.**

16
17 **8. DISCUSSION AND ACTION:**

18
19 **A. Donation to West Volusia USBC Bowling Association**
20

21 Jenni Marrow came forward and stated that she currently lives in DeLeon Springs. Ms. Marrow
22 advised that she is a member of the West Volusia United States Bowling Congress Bowling
23 Association. She stated that 2300 people participated in the annual tournament last year, noting that
24 the location of the tournament rotates around the State. This year, West Volusia is the tournament
25 host. Ms. Marrow said that she is seeking sponsors for the event, requesting that the City be a
26 corporate sponsor with a \$500 donation. She advised that there would be 2,300-2,400 women in
27 town for six weekends beginning May 8th. Ms. Marrow noted that during the participants free time,
28 they do a considerable amount of shopping and eating out, thus contributing to the local economy.
29 She said that to-date, she has raised about \$4,000 with an additional \$1,500 still needed. In response
30 to a question from Mayor Strickland, it was noted that the organization is not a 501(c)(3)
31 corporation.

32
33 Ms. Marrow advised that some of the current sponsors are the West Volusia Tourism Authority, City
34 of DeLand, Winn Dixie and both of the bowling lanes and Holiday Inns participating in the
35 tournament.

36
37 Council Member Sherrill said that, normally, he frowns on donations to private groups, however, in
38 this case the event will be stimulating the local economy. He stated, “Isn’t that what we’re here for?
39 To help the business people of the community?” He recommended approving the contribution.

40
41 Council Member Mahoney stated that his family are avid bowlers, however, he said that he was not
42 sure the contribution was “just.” He stated his belief that the City exists to provide “safety services”
43 to City residents. He expressed concern that it could open the door for similar further requests in the
44 future.

45

1 In response to a question from Mayor Strickland, Mr. Murray advised that no written policy
2 governing such requests currently exists. He said that over the years, Council has moved away from
3 getting involved in making donations.

4
5 Council Member Rasch agreed with Council Member Sherrill observing that it is an opportunity to
6 support local businesses for “very little money.” He said that he felt it would be “\$500 well-spent.”
7

8 Council Member Laputka questioned what would happen if the event did not take place. Ms.
9 Marrow assured him that it would take place. Council Member Laputka noted that making the
10 donation would “set a precedent” and he predicted that more requests would follow.

11
12 Vice Mayor Allebach said that there has not been a written policy regarding making donations,
13 however, there has been a “de facto policy” that Council will not consider such requests. He
14 discussed the procedures involved in making such donations. Vice Mayor Allebach noted that this
15 is a bit different in that it is a “one-time event.” Council Member Laputka noted that this is not a
16 charitable event.

17
18 Council Member Abraham spoke in support of the donation stating that he felt it was in support of
19 the health, safety and welfare of the women who participate.

20
21 Council Member Mahoney clarified that his reference to “justice” was in regard to “saying yes to
22 one group and no to another.”

23
24 **Vice Mayor Allebach moved to become a corporate sponsor with a**
25 **\$500 donation to the USBC Bowling Association Women’s State**
26 **Tournament, seconded by Council Member Sherrill.**
27

28 Mayor Strickland questioned whether funds were available in the budget to pay for the donation.
29 Mr. Murray responded, “We can find it.”

30
31 Vice Mayor Allebach noted that no one from the Council attended the League of Cities State
32 Conference.

33
34 **Motion passed by 5/7 roll call vote with Council Members Mahoney**
35 **and Laputka voting “no.”**
36

37 Mr. Reischmann discussed the various options for handling requests for financial assistance. He said
38 that the easiest way is just to say “no.” Some cities form committees to screen the requests to
39 allocate a pool of funds for this purpose and make recommendations to Council.

40
41 Mayor Strickland said that the City of Atlanta had a complete system for handling annual requests
42 for funding. He noted that the Chamber of Commerce had recently closed and said that it was
43 important to him to try to accommodate this request.

44
45 Council Member Sherrill recalled that Council had discussed this issue several times in the past and
46 suggested that requests be evaluated on a “case by case” basis. He said that he was recently asked

1 by a large developer how much the City actually does for business. He said that with the Chamber
2 gone, the City is needed more than ever.

3
4 B. Agreement with Volusia County for Mosquito Control Services

5
6 Paul Johnson, Public Works Director, came forward and noted that this is an annual renewal with
7 Volusia County for mosquito control services. In response to a question from Mayor Strickland, Mr.
8 Johnson advised that the decision to request spraying is made by staff. The mosquito control district
9 will then provide an estimate based on the level of service required. In response to a question from
10 Council Member Laputka, Mr. Johnson stated that spraying has been done three times including
11 after tropical storm Fay.

12
13 **Vice Mayor Allebach moved to recommend that the City Council**
14 **authorize the Public Works Director to enter into an agreement with**
15 **Volusia County for mosquito control services, seconded by Council**
16 **Member Laputka and passed by unanimous 7/0 roll call vote of the**
17 **Council.**

18
19 C. Recruitment of a new City Manager

20
21 Mr. Murray said that in the cover memo for this item, he outlined the options available to the
22 Council along with his recommendation.

23
24 Mr. Murray said that Council could choose to run their own ads after reviewing the applications. A
25 second option is to work with the Range Riders, a group of retired former County and City
26 Managers, to compile a list of potential candidates. Finally, Mr. Murray advised that his
27 recommendation is to hire a professional recruiter. He said that he is recommending the firm of
28 Colin Baenziger and that information on the firm is included in the agenda packet. Mr. Murray said
29 that they are one of the largest firms in the area. The cost for the service will be \$20,000 to \$22,000
30 for everything. Prior to the commencement of the search, the firm will interview Council and staff
31 and take a tour of the community. Once responses are received, they will recommend a list of five
32 candidates to interview. Mr. Murray advised that an RFP could be issued to secure a search firm,
33 however, he does not recommend that method. He said that if Council wants to pursue an
34 agreement with Baenziger, he can have them present at the next Council meeting and work could
35 begin immediately. Mr. Murray anticipated that a selection for City Manager could be made in
36 January.

37
38 Council Member Abraham stated that he just received the information on the Baenziger firm a
39 couple of days ago and that he hasn't read it all yet. He said that he does not support spending that
40 much money on a search. He said that the City could do the advertising itself.

41
42 Vice Mayor Allebach said that he has been following searches in other nearby communities. He
43 noted the number of communities where such searches are unsuccessful. He noted the "huge cost"
44 associated with finding a manager who is not qualified to handle the complicated issues on the
45 horizon. Vice Mayor Allebach suggested that the City does not need a new manager who is just

1 starting out, nor a manager who is nearly ready to retire. He spoke in support of using the services
2 of Colin Baenziger.

3
4 Council Member Sherrill said that the firm appears to be very well-qualified. He noted the other
5 cities and counties around the State that they have assisted. He spoke in support of hiring Baenziger.
6

7 Council Member Laputka said that he looks at it from the perspective of mistakes and the costs
8 associated with having to find a new manager because a poor choice was made. He suggested that a
9 professional screening process would be worthwhile in order to minimize the risk.

10
11 Council Member Rasch spoke in support of Baenziger stating, "It's a whole lot cheaper to do this
12 than it is to pay somebody when we find out we've got the wrong person."
13

14 Council Member Mahoney stated that his first impression was similar to that of Council Member
15 Abraham. However, he said that he also agrees with Council Member Laputka. He reminded
16 Council of the expenses incurred in the last manager transition and said that he supports the
17 proposal.
18

19 Mr. Murray advised that at this time, he just needs Council direction to bring back a contract with
20 the Baenziger firm.
21

22 **It was the consensus of Council that Mr. Murray return to the next**
23 **meeting with a contract to retain the services of Colin Baenziger for**
24 **the City Manager search.**
25

26 **9. NEW BUSINESS:**

27
28 Vice Mayor Allebach said that he would like a discussion item regarding zoning in the areas
29 surrounding the high school. He suggested that once the beltway is done, the area will not be suited
30 for residential and it is time to start planning for future development.
31

32 **10. REPORTS**

33 **A. City Manager**

34
35
36 Mr. Murray announced that Elaine Wilson has been appointed Interim Development Services
37 Director. He stated, "We look forward to Elaine's continued excellent work that she does for this
38 City."
39

40 Mr. Murray advised that the stoplights at Harley Strickland and Threadgill would be installed soon at
41 a final cost of \$77,700. Construction should begin next week with installation completed prior to the
42 beginning of the holiday shopping season. The project will also synchronize all of the lights in the
43 area.
44

1 The Agreement for Fire Services for DeBary should come to Council this week and will be
2 distributed in advance of presentation for Council consideration. In response to a question from
3 Council Member Laputka, Mr. Murray said that services would commence on November 6th.

4
5 Mr. Murray advised that agreement has been reached regarding what equipment must be purchased.
6 He said that the other main issue was the COPCN and the modification to it. The Agreement will be
7 considered by the County Council in early November with a target date to take over services around
8 November 7th.

9
10 Mr. Murray said that the City included funds to repair the roof at the fire station in the budget for
11 09/10. The City will also handle any interior renovations. Mr. Murray noted that the City is anxious
12 to get the contract signed so that personnel can be hired. He said that due to the details which must
13 be worked out, it may not take effect until mid-November. The County has agreed to provide
14 services until January if necessary. Mr. Murray advised that the Fire Station will belong to DeBary.

15
16 Mr. Murray said that the City has initiated a program to survey all of the retention ponds in the
17 commercial areas of the City. Many of the ponds have diminished capacity due to sediment and silt
18 build-up. A total of seven letters were sent to businesses where the ponds need attention and five
19 responses have been returned. Work has been started on some of the ponds.

20
21 Mr. Murray recalled that 4.5 acres of property on Veterans Memorial Parkway was annexed into the
22 City recently. The owner had plans to develop an assisted living facility on the site. The property
23 currently has a county land use and zoning designation and a land use change must be done to
24 change the property to Orange City MX which will be followed by a PUD for the project. The
25 VGMC is demanding that the land be annexed into the City with a land use of Residential, High Use
26 rather than MX. They expressed concern that if the MX designation is granted and the project is not
27 built, the City could put in 100,000 square feet of commercial development there. All of the City's
28 surrounding jurisdictions have agreed to the request for MX. Mr. Murray said that he is meeting
29 with the Chairman of the VGMC Thursday morning on this matter.

30
31 **B. Mayor/City Council**

32
33 Council Member Sherrill said that the City would be receiving a refund from WAV in the amount of
34 about \$17,000 to be paid in installments.

35
36 Vice Mayor Allebach said that an informal community action group is being formed called OC-Hi
37 (Orange City High School Initiative) to create public awareness for naming the new high school
38 "Orange City High." He spoke about the importance of creating a "sense of place." The campaign
39 will involve petitions and other communication efforts. A website has been established at
40 www.OrangeCityCitizens.com. Mr. Murray said that he invited Saralee Morrissey to the next
41 meeting to provide an update.

42
43 Mayor Strickland discussed the summit meeting held in DeBary last weekend. He said that one of
44 the main topics was water. He expressed his belief that meetings held between elected officials and
45 those from the Water Management District (WMD) and that the action taken by the elected officials
46 meeting with people from the WMD "made a difference."

1 C. City Clerk

2
3 The City Clerk asked Council if it is their desire to cancel the second meetings of November and
4 December this year. She stated that she would prepare a resolution to accomplish that if Council so
5 desires. Council was in agreement to cancel the two meetings.

6
7 D. City Attorney

8
9 Mr. Reischmann said that he received direction to work with the Mayor to negotiate a contract for
10 auditing services. A first draft of the contract has been received and several revisions made. The
11 agreement still needs to be finalized before bringing it to Council, therefore, it will be placed on the
12 October 27th agenda for approval. If Council has any concerns or comments on the proposal, submit
13 them to the City Clerk so they can be addressed in advance of the meeting.

14
15 Mr. Reischmann stated that pursuant to Chapter 286.011 F.S., he and Mr. Alan Watts are requesting
16 an executive session to be held on November 10th for guidance regarding two pending lawsuits with
17 the GEL Corporation. The first matter, GEL vs. Orange City is a code enforcement appeal from the
18 Special Master. The second matter is Case # 2006-11049. Mr. Reischmann said that the Statute
19 requires that he make this request in a public meeting. If Council agrees to have the meeting, it will
20 be noticed and agendaed.

21
22 Mayor Strickland referenced the audit contract and said that he “didn’t know it could take so many
23 different forms over a period of time.

24
25 **11. APPROVAL OF MINTUES**

26
27 **Vice Mayor Allebach moved to approve the minutes of the September**
28 **23, 2009 Regular Meeting, seconded by Council Member Laputka and**
29 **passed by unanimous voice vote of the Council.**

30
31 **12. COUNCIL COMMENTS:**

32
33 Council Member Mahoney noted that there is a sign for the west side connector which celebrates the
34 partnership between Sparkman LLC and Orange City. Council Member Mahoney said that he did
35 not like the fact that the sign listed the Orange City Council Members by name, but did not
36 recognize any of the other partners in the project.

37
38 Vice Mayor Allebach stated, “Based on the firing of all the County and City Managers around the
39 state, I’m sure any City Manager would just as soon not have their name on there.”

40
41 Mayor Strickland said that a letter was received from the Neighborhood Center about the food drive
42 held last July and how much it helped them. They asked that we keep them in mind in the future.
43 Mayor Strickland noted that he had attended the employee appreciation breakfast and took the
44 leftover biscuits to the Meals on Wheels program and they sent a nice thank you note.

45
46

1 **13. ADJOURN:**

2

3 There being no further business, Mayor Strickland adjourned the meeting at 8:32 p.m.

4

5

6 **RESPECTFULLY SUBMITTED:**

APPROVED ON:

7

8

9 Deborah J. Renner, CMC

10 Deputy City Clerk

November 02, 2009