

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida,
2 held on Tuesday, February 8, 2011 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

3
4 **CALL TO ORDER**

5
6 The meeting was called to order at 7:00 p.m. by Mayor Strickland and roll call was taken.

7
8 **PRESENT:** Mayor Harley Strickland; Vice Mayor O. William (Bill) Crippen; Council Members Jeff
9 Allebach, Tom Abraham, Anthony J. Pupello, Gary A. Blair, Tom Laputka; City Attorney William
10 Reischmann; City Manager Jamie Croteau; City Clerk Deborah Renner

11
12 The Invocation was given by Rev. Phyllis Bartles, St. Jude Episcopal Church, followed by the Pledge of
13 Allegiance.

14
15 **1. ABSENCES:**

16
17 Council Member Laputka moved to approve the absence of Council Member Gary Blair on January 11,
18 2011, seconded by Council Member Crippen and passed by 7/0 voice vote of the Council.

19
20 **2. PRESENTATIONS/PROCLAMATIONS:** Swearing-In of New Police Chief
21 Chief Thomas came forward and the City Clerk administered his oath of office. Chief Thomas thanked
22 everyone for their support. Chief Thomas stated, "As I begin my career here as Police Chief, I intend on
23 leading by example, knowing that all the men and women in the department will follow suit." The Chief
24 pledged to make himself available to all of the citizens. He gave a special thanks to Chief Ross, stating, "I
25 can never thank him enough for mentoring me and preparing me for this job."

26
27 Sgt. Jason Ward, Orange City Police Department, came forward along with the other Sergeants in the
28 Department. Sgt. Ward stated, "As you know, the Orange City Police Department has transitioned from a
29 time of hardship to a time of high morale and true professionalism. This wouldn't have been possible
30 without the leadership, dedication and the respect of then Commander Thomas, now Chief. The members
31 of the Orange City Police Department wanted to honor this occasion and support this occasion and say
32 thank you for everything that you did by standing next to us, leading us by example and creating a vision
33 for us to follow. We wanted to say thank you and we will gladly follow you anywhere." Sgt. Ward
34 presented Chief Thomas with a plaque from the department thanking him for his years of service to the
35 department.

36
37 **Update on Heritage Festival**

38 Alisa Stafford came forward and stated that she has been working on planning for the upcoming African
39 American Heritage Festival. The Festival will be held February 26th from 10:00 a.m. to 5:00 p.m. in the
40 Orange City Library and Dickinson Park. Ms. Stafford outlined some of the activities to be included in
41 the event. She noted that there are a number of sponsors who are funding the children's amusements so
42 they can be provided at no charge. Ms. Stafford asked the City to match the \$2,000 they have received in
43 sponsorship thus far.

44
45 **Proclamation – Black History Month**

46 Council Member Laputka read a proclamation into the record recognizing the month of February 2011 as
47 "Black History Month" in the City of Orange City.

48

Proclamation – Heritage Festival

Council Member Laputka read a proclamation into the record commending the organizers of the African American Heritage Festival and wishing them much success on their event to be held February 26, 2011.

Jeff Allebach – Manatee Festival

Council Member Allebach came forward and noted that the pictures being displayed were from this year's festival. He acknowledged and thanked all of the committee members, some of whom were present this evening. He said that over 5,500 people were counted entering the gate. Council Member Allebach said that Blue Spring State Park counted over 3,850 people. He thanked City Staff who assisted with the event and presented them with a festival t-shirt. Council Member Allebach then thanked all of the festival sponsors.

Mayor Strickland noted that Volusia Day will be held on March 23rd this year and there will be a bus leaving from DeLand. He urged everyone to turn in their shirt orders.

3. **CITIZEN COMMENTS:** (There were no requests to speak)

4. **CONSENT AGENDA:**

- a) December 14, 2010 Tree Board Meeting Minutes
- b) January 11, 2011 Regular Meeting Minutes

Mayor Strickland noted that he had requests from the public to speak on items "c" and "d" on the consent agenda, therefore they were removed.

Vice Mayor Crippen moved to approve items 4a and 4b on the consent agenda, seconded by Council Member Laputka and passed by a unanimous 7/0 roll call vote of the Council.

Amendment to JPA with FDOT re: 17-92 Beautification (Formerly Item 4c)

Paul Johnson, Public Works Director, came forward and stated that staff is requesting approval to amend the current agreement with the Department of Transportation (DOT). Mr. Johnson advised that the original grant was for \$200,000 for landscape beautification on 17-92 medians and common areas. The work associated with the grant money was phased in. The project came in under budget which left funding available in the amount of \$42,000. Mr. Johnson noted that the drought last year had a real adverse affect on the plants. He suggested that the excess money be used to install irrigation to the medians to avoid this problem in the future. He said that staff would like to save the plants that are there now. Mr. Johnson expressed his desire to make any future plantings directed by Council to be "sustainable" and "vibrant." He asked for Council's approval to amend the agreement with DOT.

Mayor Strickland asked whether the proposed sprinkler system would be utilizing potable water. Mr. Johnson responded that it will be since Orange City does not have reclaimed water available at this time. He said that the system is convertible to use either wastewater or reclaimed water when it becomes available. Mayor Strickland asked if projections regarding the amount of water to be used by the system were available, noting that the message to the public has been to conserve water. He conceded that this must be measured against how to make the City look better. Mr. Johnson responded that care must be taken not to over water. He advised that the proposed system is "highly efficient." As to the amount of

1 water to be used, Mr. Johnson said that it depends on how often it must be used. He stated that it would
2 only be used during very dry periods or when establishing new plantings. He said that if the sprinklers
3 were run for thirty minutes once a week, they would use roughly 45,000 gallons for the month.
4

5 Council Member Laputka asked whether the grant money could be used for things other than a sprinkler
6 system. Mr. Johnson responded that when the City originally applied for the grant, irrigation was not an
7 allowed use. As it turned out plantings had to be redone a number of times due to various situations and
8 DOT changed their mind. He advised that \$45,000 would not provide for many plantings as DOT requires
9 that the work be done by a contractor. Mayor Strickland asked whether the irrigation was part of a
10 "longer term plan." Mr. Johnson responded that there is no longer term plan. He stated that was
11 Council's decision. He noted that there have been discussions regarding the 17-92 corridor, however, no
12 definite direction has been set by Council as yet. Mr. Johnson stated, "By having the irrigation there, in
13 place, whether we use it or not at this time, it will be available to sustain whatever we plan in the future."
14

15 Council Member Blair asked whether the system would be activated manually. Mr. Johnson responded
16 that it would be controlled by soil moisture sensors. He said the system would be monitored very closely
17 to ensure that it is not used unless necessary. Council Member Blair asked whether the proposed heads
18 were more efficient than drip irrigation. Mr. Johnson responded, "Yes, sir." He advised that 80% of the
19 water gets into the soil and that it is a very even distribution of the water. He said the proposed system
20 uses about one-half the water of a normal sprinkler system. Mr. Johnson advised that in a residential
21 setting, this type of system saves about 30% on the water bill and that some communities are offering
22 rebates to people who change to this type of system. Council Member Blair asked Mr. Johnson to send
23 Council a link to the YouTube video he referenced which discusses the proposed system. Council
24 Member Blair asked if any estimates were available regarding the cost to re-landscape the areas where the
25 plants have died. He questioned whether xeriscape plantings would be utilized. Mr. Johnson responded,
26 "Of course, even drought-tolerant plants need water." He advised that sometimes the plants can rebound,
27 however, if they are watered, they will stay green and vibrant. Mr. Johnson observed that since there is
28 pavement on both sides of the plantings, it is hard for them to establish a good root system. He reiterated
29 that at this point, there is no plan for the types of plants to be used in the future. Council Member Blair
30 asked the City Manager for an idea of how much money will be needed for plantings in the future.
31 Ms. Croteau said that she was not sure if any further grant money would be available for replanting. She
32 said that \$15,000 was spent to replace plants on Graves and 17-92, but it did not go far. She said that staff
33 has been waiting until after the upcoming visioning session to make further landscaping plans. Mr.
34 Johnson advised that about \$160,000 was spent on the previous landscaping along the entire corridor. Ms.
35 Croteau said that based on that, it would cost about \$160,000 to \$200,000 for landscaping and that money
36 is not in the budget. Council Member Blair stated, "So we're putting in an irrigation system for no
37 plants." Mr. Croteau responded, "To try to preserve what we currently have." She said that staff would
38 like to preserve the plants that remain. She noted that if the irrigation system is installed, the City would
39 have to pay the difference between what the bid is and the \$42,000 from DOT. The cost for the system is
40 estimated at \$71,000.
41

42 Council Member Allebach noted that the reason the existing plants did not survive is because there was no
43 irrigation. He stated, "We're trying to create Orange City as a place to be, and I'm telling you, nobody
44 wants to drive anywhere that it just looks like it's dead, decrepit, and there's nothing going on." Council
45 Member Allebach expressed that conservation is not stopping drinking and not using water, it means that
46 we must be smart about it. He discussed the importance of making the community look presentable.
47

1 Council Member Blair said that his problem is with a “lack of a plan.” He said, “That’s where I’m
2 struggling right now.”

3
4 Mayor Strickland said that over the years he has learned that in order for things to move forward, basic
5 systems must be in place. He said that at one point there was talk that future money would be available
6 for “Heritage Corridor” improvements and the possibility exists that could fund landscaping. He
7 reiterated that what staff is asking for is to preserve what is there while preparing for future improvements.
8

9 Council Member Laputka questioned whether the \$42,000 must be spent by a certain time. Mr. Johnson
10 responded that the deadline is July 1, 2011. Council Member Laputka stated, “So we have to commit for
11 it by July 1st.” Council Member Laputka questioned whether the quality of the soil in the medians is able
12 to sustain plantings. Mr. Johnson conceded that medians are “not a native area” for any type of plant. He
13 suggested that staff needs to do better research on what types of plants do well in that environment.
14 Council Member Laputka suggested that things are moving forward “a little too fast.” He noted that in
15 light of the deadline, there is time to plan a bit better. He said that he concurred with Council Member
16 Blair and that he still has a couple of questions which have not been answered yet.
17

18 Council Member Allebach stated that no matter what type of plant is put in the median, it will need water.
19 Council Member Pupello concurred that it will need water for establishment. He said that the irrigation
20 should have been put in before the first plantings were done. Council Member Allebach suggested that
21 the City use the money while it is still available.
22

23 Council Member Abraham noted that the cost of maintenance into the distant future could amount to a lot
24 of money. Mr. Johnson said that the City is paid by DOT for maintenance of the medians. Council
25 Member Abraham asked who provided the price list in the agenda packet. Mr. Johnson responded that it
26 was the City’s consultant engineer.
27

28 Vice Mayor Crippen asked Mr. Johnson what type of plants were used in the first two plantings in the
29 medians. Mr. Johnson responded that the City replanted the same plants when the original plantings had
30 to be removed for scheduled maintenance on the medians. He said that DOT did not make the City aware
31 of the maintenance ahead of time, resulting in the need to temporarily remove the plants. He suggested
32 that this could be a contributing factor to DOT’s decision to allow the City to use the money for irrigation
33 at this time. Vice Mayor Crippen asked if water pipes were already located in the medians. Mr. Johnson
34 responded in the negative. Vice Mayor Crippen said that he understood that a plan for future plantings
35 could not be developed at this time, however, if the money is not used it will go back to DOT. He
36 suggested that the money be used for the irrigation.
37

38 Council Member Pupello noted that some of the plants have been sheared off due to car accidents. He
39 questioned whether there were any laws that would make the people involved accountable for the damage.
40 Mr. Johnson responded, “absolutely.”
41

42 Council Member Blair reiterated that the City does not really know at this time what will be done with
43 17-92, citing the possibility of turn lanes, etc. He stated, “I have a problem with that.” He asked whether
44 \$42,000 would pay to irrigate the existing plants. Mr. Johnson responded that he could not answer at this
45 time.
46

47 Michael Wright, Chair, Water Sustainability Committee, came forward and noted that the “absolute
48 challenge” of water conservation is to motivate citizens to willingly participate. He said that according to

1 the St. Johns River Water Management District (WMD), over 50% of typical water usage is for irrigation.
2 He said that the Committee has been exploring the development of a sample landscape plan that does not
3 require irrigation, or at least requires significantly less irrigation. The plan must require minimal or no
4 irrigation, must be cost effective, and must have a “wow factor.” He suggested that this could be a good
5 opportunity to show off such a plan. Mr. Wright maintained that even if the cost of installing such plants
6 exceeded the \$71,000, the City would stand to gain a good return on its investment in the form of water
7 conservation.

8
9 Ms. Croteau thanked Mr. Wright for his comments. She noted that what is available from the grant money
10 is not \$71,000, rather it is \$46,000 from DOT. She said that the State is not happy with the City because
11 the medians do not look good after they gave the City \$200,000 for beautification. Ms. Croteau advised
12 that part of a maintenance plan includes water. She said that the City Council has expressed a wish for
13 beautification in this area. She emphasized the importance of maintaining the existing plants in the
14 medians. Ms. Croteau said that the City is competing with DeLand and Deltona that both have beautifully
15 landscaped medians. She stated, “It is very hard, when we have money available to us, not to do this
16 project when we know sooner or later this project has to be done.” Ms. Croteau said that if Council does
17 not want to do this project, it is strictly a policy decision and that staff will comply with Council’s
18 direction. In conclusion, she stated, “We just thought it was a good idea to take a step forward in the
19 beautification of the City.”

20
21 Council Member Laputka stated, “I’m for not doing it today.” He stated that he is not convinced that it is
22 a good expenditure at this time. He stated, “There’s too many spots missing.” Council Member Laputka
23 suggested that it could be done “later,” noting that the deadline is July 1.

24
25 Mr. Reischmann asked for clarification as to what must be done by the July 1st deadline. Mr. Johnson
26 responded that is the current timeline, but perhaps there is some room for “adjustment.” He noted that the
27 State’s budget year begins on July 1st. In response to a further question from Mr. Reischmann, Mr.
28 Johnson advised that the July 1st deadline is for completion of the contract. He noted that the job would
29 still have to be bid and then the contract approved by DOT which could take two months.

30
31 Council Member Blair stated, “Before we vote on this, I just want to state I am not opposed to this. But I
32 am opposed to the fact that we don’t have a complete package in front of us.” He suggested that it be
33 brought back at a later time with a more definite landscape plan.

34
35 Council Member Allebach stated, “Well, I think the plants that are there need the water.”

36
37 **Council Member Allebach moved to authorize the City Manager to**
38 **execute an amendment to the JPA with FDOT as presented, seconded by**
39 **Vice Mayor Crippen.**

40
41 Vice Mayor Crippen said that Mr. Wright alluded to “really gorgeous plants” that don’t require water. He
42 stated, “I’d like to see those, because we should have already had them in otherwise.”

43
44 Council Member Laputka suggested that the approval be conditioned upon the presentation of a landscape
45 plan. Council Member Allebach responded that no matter what the plan is, all plants require water.
46 Council Member Laputka said that it would be different if non-potable water were to be used. Mr.
47 Johnson responded that the proposed system would provide for a changeover to a non-potable water
48 source when it becomes available.

1 Council Member Blair expressed his “disappointment” that staff did not have a plan prepared laying out
2 various options for Council. He stated, “The homework wasn’t done here. Therefore, I’m not going to
3 support this.”

4
5 Vice Mayor Crippen observed that if the system is not put in until sometime in the future, it is likely the
6 cost will increase. Mr. Johnson noted that it is also questionable whether the City could find another
7 source willing to fund 60% of the project.

8
9 Henry Durica, 1310 E. Lansdowne, came forward and asked how many irrigation heads are involved in
10 the bid. Mr. Johnson responded, “842.” Mr. Durica noted that equals about \$900 per head. He suggested
11 that the City complete the bidding process first before committing to the project. He stated, “We’re
12 putting the cart before the horse here. I’m with you Mr. Blair. Why don’t we find out what \$42,000 will
13 give us in irrigation first? We should use what’s left before we go spending what’s not here.” Mr. Durica
14 questioned whether water could be delivered by tanker once a month. He asked if the City owns a water
15 tanker. Mr. Johnson responded that the City has a trailer with a 500 gallon tank. He noted the expense of
16 labor associated with an effort to irrigate manually would escalate the expense beyond the proposed cost
17 over a period of time. Mr. Durica expressed that the cost for the irrigation system “doesn’t seem
18 appropriate at this time.”

19
20 Hugh Strickland, 420 May Street, came forward and concurred with Council Member Blair. He advised
21 that you can call the extension service and they do consulting work on native plants at no charge. He
22 suggested consulting with them before making a decision. Mr. Strickland stated, “It’s very simple, get a
23 little more information and that way Mr. Blair gets his questions answered and so do a lot of other
24 people.” He said that he does not water his yard and has plants that do well. Mr. Strickland said that a
25 soil test could be done for free at the agriculture center.

26
27 **Motion failed by 3/4 vote of the Council with Council Members Blair,**
28 **Abraham, Pupello, and Laputka voting “no.”**

29
30 **RESOLUTION NO. 632-11: (formerly Item 4d)**

31
32 A resolution of the City Council of the City of Orange City, Florida, relating to the
33 collection and disposal of solid waste in the incorporated areas of Orange City, Florida;
34 approving the assignment of exclusive franchise for the collection and disposal of
35 residential solid waste, yard waste, and curbside recyclable materials (“franchise
36 agreement”); and authorizing the city manager of the City of Orange City, to execute a
37 consent to assignment of the franchise agreement pursuant to section 6 of the franchise
38 agreement; repealing all resolutions in conflict herewith, providing for severability and an
39 effective date.

40
41 **Council Member Laputka moved to approve Resolution No. 632-11,**
42 **seconded by Council Member Blair.**

43
44 Christine Davis, Finance Director, came forward and stated that the purpose of the resolution is to assign
45 the franchise agreement for the collection of residential solid waste currently held by EWS to Waste
46 Corporation of America (WCA). Ms. Davis advised that two sections of the agreement had to be
47 addressed: Section 11, First Right of Refusal. Staff does not recommend pursuing this option. The
48 second section is that the approval of the assignment must be given by Council. Ms. Davis continued her

1 presentation stating that the staff would not change. She said that staff found no reason not to approve
2 the assignment.

3
4 Council Member Blair stated, "So, in layman's' terms it's just a name change?" Ms. Davis responded,
5 "yes."

6
7 Mr. Reischmann said that his understanding is that the management team and the workers will remain the
8 same. The only change is the owner of the company. He explained that the change is a transfer of the
9 stock to a new owner. He clarified that the contract does not change at all, the new owners agree to
10 assume "each and every responsibility, unchanged." He advised that this has happened in the past, noting
11 that in fact, EWS is an assignee of the franchise arrangement.

12
13 Council Member Laputka asked whether there is an opportunity for the City to improve its position at this
14 time. Mr. Reischmann responded that the City can't force a change with EWS, however, a negotiated
15 change could be discussed, however, any change must be agreed upon by both parties. Council Member
16 Laputka stated, "But in your opinion, an opportunity exists, perhaps." Mr. Reischmann reiterated that
17 there is nothing in the franchise agreement that would force EWS to make any concessions whatever. He
18 said that the agreement provides that the approval may not unreasonably be withheld. He explained that
19 this means that if some legitimate reason why the assignee could not perform the obligations in the
20 franchise agreement exist, then there would be grounds for the City to deny this resolution. He stated that
21 he has not heard any such evidence on the record.

22
23 Henry Durica, 1310 E. Lansdowne, came forward and said that he and others have been commenting for
24 years on lowering the rates for the citizens. He questioned again whether this could be an opportunity to
25 reopen the negotiations. Mr. Reischmann said that the City could approach them about a rate adjustment.
26 He clarified that there is no change, whatsoever, to the terms of the franchise agreement other than the
27 name of the stock. Ms. Croteau advised that a rate concession was requested.

28
29 Ron Saylor, 361 Dixson, came forward. He observed that staff was being rewarded for "getting the
30 paperwork all done." Mr. Saylor recalled a recent incident he had with the garbage company over service.
31 He reminded Council to look out for the citizens and suggested that the new company should provide the
32 customers with a phone number. Council Member Blair suggested that complaints should be made to the
33 City Manager's office.

34
35 Mr. Reischmann noted that the City has "first right of refusal" regarding purchase of the assets prior to the
36 sale to WCA. Mayor Strickland said that Council should be clear that the options are to approve the
37 agreement or to buy the service.

38
39 Council Member Abraham asked whether the City could "buy a few trucks and use some employees and
40 pick up the trash." Council Member Abraham noted that Flagler Beach is doing that. Mr. Reischmann
41 responded that the City has an existing contract which has a term through 2014. If the city wanted to enter
42 the trash business at this time, it would have to exercise its "right of first refusal." He emphasized that the
43 agreement does not allow the city to "simply ignore the contract." In summary, the city's options are to
44 exercise the right of first refusal or analyze and vote to approve or not approve the assignment.

45
46 Vice Mayor Crippen noted that if there is a problem with the service, it can be resolved by calling the City
47 Manager's office.

48

1 Council Member Pupello said that in 2014 when the contract expires, he would like the “right of first
2 refusal” clause to involve only the assets used to service the City. He said that he would like to “not be
3 lumped into what is convenient for the carrier or the service provider.” Council Member Pupello noted
4 that this is the third owner of the company since the City entered into a contract with them. He suggested
5 that there should be some consideration for the City in the future.

6
7 Council Member Abraham said that he called on behalf of a few citizens with a problem and Mr. Johnson
8 immediately attended to the problem and it was resolved.

9
10 **Motion passed by 6/1 roll call vote of the Council with Council**
11 **Member Pupello voting, “no.”**
12

13 Mayor Strickland noted that Jim Cameron had arrived and asked if anyone was opposed to him making his
14 presentation at this time. Hearing no opposition, Mr. Cameron came forward.

15
16 Jim Cameron, Sr. Vice President of Government Relations, Daytona Regional Chamber, came forward
17 and told Council that Volusia Day is scheduled for March 23rd. The County will again have buses for the
18 trip to Tallahassee and if more than 35 people sign up, there will be a bus for West Volusia. Mr. Cameron
19 noted that the Governor has been invited to address the group. The theme this year is “Jobs for Volusia”.
20

21 **5. ORDINANCES – FIRST READING:**
22

- 23 **A. ORDINANCE NO. 448:** An ordinance of the City Council of the City of Orange City,
24 Florida, amending Sections of Chapter 17.3 Utilities of the Code of Ordinances of the
25 City of Orange City, Florida; providing for conflicts, severability and effective date.
26

27 **Council Member Laputka moved to adopt Ordinance No. 448 on first**
28 **reading, seconded by Council Member Pupello.**
29

30 Linda Snyder, Financial Services Supervisor, came forward and said that staff is requesting a change in
31 the language in Chapter 17.3 which requires that each customer shall be required to pay a deposit. The
32 new language changes the mandatory “shall” to “may”. At a later date, staff will be returning with an item
33 for authorization to contract with a third party to perform credit checks on new customers to determine
34 whether they should be subject to a deposit requirement. If the customer is found to have a good rating,
35 the deposit requirement could be waived. She said that currently, all customers are required to make a
36 deposit. Staff is also requesting that deposits be held in a non interest-bearing account. She said that the
37 interest amounts are so low at present that it costs more to credit the amount to the customer’s account
38 than they are actually receiving.
39

40 Council Member Blair asked whether this change would apply only to new customers or to existing
41 customers as well. Ms. Snyder said that there could be an option for a customer to have their account
42 evaluated for a \$5 fee if Council so desires. Council Member Blair asked whether a new customer would
43 be charged a fee to have the credit check done. Ms. Snyder responded in the negative stating that the fee
44 is to be absorbed into the fee already charged to open a new account.
45

46 Council Member Allebach said that he felt this change would enhance customer service.
47

48 Council Member Laputka commended staff for this improvement.

1 **Motion passed by 6/1 roll call vote of the Council with Mayor**
2 **Strickland voting, “no.”**

- 3
4 **B. ORDINANCE NO. 450:** An ordinance of the City of Orange City, Volusia County,
5 Florida; amending Orange City Code Appendix A, Zoning Ordinance as adopted by
6 Ordinance No. 157, amending Section 3.6 Variances adding 3.6.6 Administrative
7 Variances; containing a repealer provision, severability clause and providing for an
8 effective date.

9
10 **Council Member Laputka moved to adopt Ordinance No. 450 on first**
11 **reading, seconded by Council Member Pupello.**

12
13 Wendy Hickey, Planning & Zoning Analyst, came forward and stated that this ordinance would add a
14 provision for administrative variances to Section 3.6 of the City’s zoning code. Ms. Hickey said that this
15 ordinance would implement a process to allow minor modifications to a particular property or
16 development providing that the modification is equal to or less than 10% of the requirement. Ms. Hickey
17 cited an example of a property which has a 5 foot setback requirement the variance would be limited to
18 .5 feet. The variance provision would only apply to setbacks, height or floor areas. Staff is also
19 requesting that yard dimensions be added at this time as well. Ms. Hickey discussed the present system
20 for a variance, stating that the application costs \$500 and must be approved by the Planning Commission.
21 She advised that it is a long process. If this change is implemented, the request would go to the City
22 Manager or designee which would be the Development Services Manager and they would have the
23 authority to approve or deny. If the request for an Administrative Variance is denied, the applicant would
24 have the ability to apply to the Planning Commission under the full variance process.

25
26 Council Member Allebach stated that this will give staff “a little leeway” to work with citizens to provide
27 a streamlined process which is more user-friendly.

28
29 The City Clerk noted that the vote is to approve the ordinance with the requested amendment to add yard
30 dimensions.

31
32 **Motion passed by unanimous 7/0 roll call vote of the Council.**

33
34 **6. PUBLIC HEARINGS:**

- 35
36 **A. ORDINANCE NO. 447:** An ordinance of the City of Orange City, Florida, annexing the
37 Senez property into the corporate limits of the City of Orange City, Florida; said property
38 being generally located on the west side of North Volusia Avenue, approximately 600
39 feet south of West Minnesota Avenue, containing approximately 9.35 acres; in
40 accordance with the voluntary annexation provisions of Florida Statute 171.044;
41 redefining the boundaries of the City of Orange City by amending the appropriate
42 sections of the code of ordinances; containing a repealer provision, a severability clause
43 and providing for an effective date.

44
45 **Council Member Laputka moved to adopt Ordinance No. 447**
46 **on second reading, seconded by Council Member Blair.**
47

1 Mr. Kerr came forward and advised that there have been no changes since first reading. He advised that
2 the property is contiguous to the city limits and meets the criteria of the state statutes.

3
4 Mayor Strickland advised that he ran into Mr. Senez who could not be present tonight, but who advised
5 him that he was happy to have his property become part of the City.

6
7 Mayor Strickland opened the public hearing by asking if anyone wished to speak. No one appeared. The
8 Mayor closed the public hearing.

9
10 **Motion passed by unanimous 7/0 roll call vote of the Council.**

- 11
12 **B. ORDINANCE NO. 449:** An ordinance of the City of Orange City, Florida, extending a
13 temporary moratorium for an additional ninety (90) days on the issuance of any business
14 tax license, permit, conditional use approval, site plan approval, and any other official
15 action of the City of Orange City having the effect of permitting or allowing construction
16 and/or operations of certain businesses within the City of Orange City, related to game
17 rooms, arcades, internet cafes, sweepstakes redemption centers, establishments using slot
18 machines or slot machine like equipment and similar indoor entertainment and amusement
19 activities as more specifically described in this ordinance, excluding approvals and permits
20 for the continuance of an existing business; the temporary moratorium shall apply to all
21 real property located within the corporate limits of the City of Orange City; providing for
22 conflicting provisions; providing for severability, conflicts and an effective date.

23
24 **Vice Mayor Crippen moved to adopt Ordinance No. 449 on second**
25 **reading, seconded by Council Member Allebach.**

26
27 Mr. Reischmann noted that this is second reading of an ordinance to extend the moratorium on the
28 establishment of certain establishments within the City. He advised that an ordinance would be presented
29 for first reading at the second meeting of February regarding this issue.

30
31 Council Member Laputka asked whether there has been any news from the state regarding these types of
32 establishments. Mr. Reischmann said that he has seen no evidence that the State is interested in spending
33 any more funds on the enforcement of the existing laws on internet cafes. He advised that there are many
34 jurisdictions that are trying to regulate the cafes in addition to the regulations currently on the books in the
35 state. He said that there are two general kinds.....one is land use and the other is by enacting a series of
36 specific regulations trying to create definitions for the types of machines being used at the establishments.
37 He said that this ordinance would be considered by the Planning Commission at a special meeting
38 February 16th and then brought to Council on February 22nd. Mr. Reischmann clarified that the purpose
39 of Ordinance No. 449 is to give the City a little extra time to consider the options.

40
41 Mayor Strickland opened the public hearing. No one appeared, the Mayor closed the public hearing.

42
43 **Motion passed by unanimous 7/0 roll call vote of the Council.**

44
45 **7. RESOLUTIONS:** (None at this time)

46
47 **8. DISCUSSION AND ACTION:**
48

1 A. Discussion of Alleys in Orange City
2

3 Mayor Strickland stated that staff's recommendation is that Council consider maintaining the nineteen
4 alleys identified in the Inventory dated January 11, 2011 (a copy of which is attached and becomes a
5 permanent part of these minutes) on an as-needed basis, and to consider vacating four alleys as identified
6 on the maps attached hereto as Items L, O, P and Q.
7

8 Jim Kerr, City Planner, came forward and stated that an alley is defined as right of way that provides a
9 secondary means of access to a property. Mr. Kerr advised that the alley is not owned by the adjoining
10 property, rather it is a right of way existing between properties. He noted that most of the alleys were
11 created prior to the requirement for a "dedication statement." The dedication statement defines who owns
12 the alley and who will maintain it. He said that some alleys have been maintained on an intermittent basis,
13 while some not at all. Mr. Kerr said that Council has the authority to vacate an alley and has done so in
14 the past. When an alley is vacated by Ordinance, the property is divided amongst the property owners on
15 both sides.
16

17 Mr. Kerr went over the criteria used by staff to determine whether an alley should be vacated. Some of
18 the most important issues considered are whether the alleys are being used for things such as garbage
19 pickup or whether there are utilities located there. He reiterated that staff is recommending that four
20 alleys be vacated. Mr. Kerr noted that in the case of Alleys "P" and "Q," the property owners had "moved
21 in" and placed sheds and such in the alley. A number of alleys on the west side of 17-92 were vacated by
22 the County prior to annexation into Orange City.
23

24 Mr. Kerr stated that staff's recommendation is to create an ordinance vacating alleys L, O, P, and Q.
25

26 Council Member Blair asked why these were the only alleys recommended to be vacated. Mr. Kerr
27 responded that the other alleys are being used in some manner. Some are providing primary and/or
28 secondary access to abutting properties. Council Member Blair asked for further explanation as to the
29 difference between a "maintained" alley and an "unmaintained" alley. Mr. Kerr responded that the City
30 has performed some form of maintenance on some of the alleys. Council Member Blair questioned how it
31 was decided which alleys would be maintained. He noted that when he lived on an alley off Graves, there
32 was a "tremendous" amount of water coming from the alley. He questioned whether the City had any
33 obligation to deal with the stormwater issue because the alley is considered unmaintained. He said that
34 this is an issue in other alleys as well. Mr. Kerr responded that maintenance on any of the alleys has been
35 done on an intermittent basis. Council Member Blair questioned whether there was a procedure in place
36 to provide relief to any of the citizens living on the alleys in response to complaints about alleys which
37 had become overgrown. Mr. Kerr responded that the report proposed that maintenance would be done on
38 an "intermittent" or "as-needed" basis.
39

40 Paul Johnson, Public Works Director said that his recommendation is that the City maintain any alleys it
41 has ownership of. He clarified that this maintenance would be performed on an "as-needed" basis. Mr.
42 Johnson stated, "I absolutely agree that if we're going to keep these alleys, we should maintain them."
43 Council Member Blair concurred.
44

45 Council Member Laptuka noted that the alleys identified as G, H, and J, K are overgrown. He questioned
46 whether the City planned to clear those alleys. Mr. Johnson stated that the City needs to maintain G and
47 H as they are used, however, J and K are maintained only sporadically.
48

1 Council Member Allebach suggested that perhaps more than four of the alleys need to be vacated. He said
2 that some of the more traveled alleys should even be graded.

3
4 Council Member Blair observed that many of the alleys are “trouble spots” with speeding traffic. He
5 stated that he would support vacating all of the alleys, or at least the majority. Mr. Johnson noted that
6 there were utility lines and meters down the alley identified as “K.” Council Member Blair clarified that
7 nothing will change with the status of the alleys, and if a citizen has a problem they should call the City
8 for help.

9
10 **Council Member Allebach moved that Council maintain the nineteen**
11 **alleys listed in the inventory as always and direct staff to prepare an**
12 **ordinance to vacate the alleys identified as L, O, P, and Q, seconded by**
13 **Vice Mayor Crippen.**

14
15 Council Member Blair asked whether staff solicited input from any of the property owners abutting the
16 alleys. Mr. Johnson replied in the negative.

17
18 Council Member Allebach suggested proceeding with vacating the four alleys identified as L, O, P, and Q
19 as suggested, then follow that with speaking with the property owners.

20
21 **Council Member Blair moved to amend the main motion to direct staff to**
22 **talk to the people living on the alleys to gain consensus from them as to**
23 **what they would like to have done with the alleys, seconded by Council**
24 **Member Laputka.**

25
26 Mr. Reischmann noted that staff made a number of recommendations in regard to the alleys. He said that
27 while the feelings of the abutting property owners is important, some of the alleys have utility easements
28 and/or improvements, some of them serve as access to the property and may provide access to various
29 service providers. In light of these considerations, there could be legal consequences with vacating some
30 of the alleys even though abutting property owners don’t want them. He stated, “It’s more than just what
31 the abutting property owners may want.”

32
33 Council Member Blair noted that the inventory does not identify which alleys contain utility easements.
34 Ms. Croteau responded that these factors were researched and considered by staff when making their
35 recommendation as to which alleys should be vacated. She suggested that talking to all of the property
36 owners could create a conflict if they wanted the alley vacated but that was not possible. Council Member
37 Blair responded, “Well, at least there’s buy in on the citizens’ part....they know what’s going on.”

38
39 **Motion to amend passed by 4/3 roll call vote of the Council with Council**
40 **Members Allebach and Crippen and Mayor Strickland voting “no.”**

41
42 **Main Motion to maintain the alleys and to vacate those identified as L, O,**
43 **P, and Q on the survey passed as amended by 7/0 roll call vote of the**
44 **Council.**

45
46 B. Five Year Road Program
47

1 Paul Johnson, Public Works Director, came forward and distributed a revised worksheet (a copy of which
2 is attached and becomes a permanent part of these minutes), noting that there was a typographical error in
3 the square footage column on the one included in the agenda packet.
4

5 Mr. Johnson advised that several roads were identified as needing work during the budget process this
6 year and, as requested by Council, staff had reevaluated those roads to determine if they were appropriate
7 for resurfacing at this time. He noted that the road plan was then updated as it was in the fifth year of the
8 existing 5-year plan. Mr. Johnson advised that the roads were evaluated by a professional paver at no
9 charge. The City could also have had the evaluation done by an engineer at a cost of \$12,000. Mr.
10 Johnson said that the city has been “piggybacking” on the County’s contract with Halifax Paving for most
11 of the paving work done in the City over the last five years. He clarified that the 5 year road plan does not
12 specify that Halifax would do the work.
13

14 Mr. Johnson noted that the roads were rated on a scale of 1 to 9. The roads identified with a “—“ were not
15 evaluated at Mr. Johnson’s request because they had been resurfaced in recent years. Mr. Johnson
16 discussed the plan in detail, noting that the estimated costs for future years could be somewhat difficult to
17 predict. He expressed his confidence in the numbers on the spreadsheet which he distributed.
18

19 In response to a question from Council Member Laputka, Mr. Johnson advised that the portion of Oak
20 Avenue is South past Graves. Council Member Laputka stated, “It’s already been covered once.” He
21 further stated, “We don’t want to make that mistake again.”
22

23 Mayor Strickland questioned whether traffic volume was factored into the rankings for paving. Mr.
24 Johnson responded that it was not. He noted that many roads had been neglected for many years. A
25 program has been implemented over the past five years. Mayor Strickland observed that it is a case of
26 “deferred maintenance.” Mr. Johnson concurred. Mayor Strickland asked if there is a maintenance plan
27 for the major arterial roads in the City. Mr. Johnson responded that the City does not own and is not
28 responsible for the majority of arterial roads. Mayor Strickland specifically inquired about Leavitt
29 Avenue. Mr. Johnson responded that Leavitt from Shadick to Rhode Island was resurfaced about three
30 years ago. He said that the plan needs to be evaluated every year and adjustments made to it when
31 necessary. Mayor Strickland noted that the plan can be modified in subsequent years as necessary. He
32 stated that he would like to get caught up on all of the deferred maintenance of years past.
33

34 **Council Member Allebach moved to approve the updated five-year**
35 **street plan as presented, seconded by Council Member Laputka.**
36

37 Council Member Pupello asked which part of May Street was scheduled for repaving. Mr. Johnson
38 responded that it included the entire street.
39

40 Mayor Strickland said that he found the rankings confusing and that he would have liked more
41 explanation.
42

43 **Motion passed by unanimous 7/0 roll call vote of the Council.**
44

45 **9. NEW BUSINESS:**
46

1 Council Member Laputka reminded the City Manager that he had previously requested a report on pocket
2 parks. Ms. Croteau said that this was an issue that would take some time to look into and that it would
3 probably not be brought back at the next meeting.

4
5 Council Member Pupello said that he would like for staff to look into the medians with some help from
6 the soil conservation district and the agriculture extension agent.

7
8 Vice Mayor Crippen referenced the \$42,000 left in grant money and said that he would not like to see it
9 “go away.” He said that he would like to see staff pursue some “outside assistance” as was suggested
10 tonight.

11
12 Mayor Strickland asked what would be required for Council to reconsider the vote on the JPA. Mr.
13 Reischmann responded that a motion for reconsideration can only be made by the party who was on the
14 prevailing side. He clarified that in this case, it would have to be someone who voted “no.”

15
16 **10. REPORTS:**

17
18 **A. City Manager**

19
20 Ms. Croteau introduced the Interim Fire Chief, Chris Johnson. She said that he came from Seminole
21 County and that he has signed a three-month contract with the City.

22
23 Ms. Croteau stated that a FEMA grant for heart monitors was received last fiscal year. The amount of the
24 grant was \$150,000. She said that there is still \$8,066 left which could be used for support equipment, but
25 would require a budget amendment.

26
27 **Council Member Allebach moved to allow the Manager to expend the**
28 **funds remaining from the FEMA grant and to bring back a budget**
29 **amendment, seconded by Vice Mayor Crippen and passed by**
30 **unanimous 7/0 roll call vote of the Council.**

31
32 Ms. Croteau next announced that Orange City has been selected to receive a \$5,000 “Heritage Program
33 Grant”. She said that staff is requesting to amend the budget to accept this money to use for rope rescue
34 equipment.

35
36 **Council Member Allebach moved to have the Manager bring back the**
37 **adjustment to the budget to accept free money, seconded by Vice**
38 **Mayor Crippen and passed by 7/0 roll call vote of the Council.**

39
40 Ms. Croteau reminded everyone that there would be a “movies in the park” on Friday featuring the movie
41 “Valentines Day.”

42
43 Council Member Laputka asked the City Manager whether money could be found in the budget to fulfill
44 the request of the Heritage Festival Committee for \$2,000 in funding. Ms. Croteau said that there are
45 several places in the budget she could use to fund the event. She noted that the City has already provided
46 some printing for the event as well as utilizing the services of Danielle Lung to do some press releases.

47

1 **Council Member Laputka moved that the City donate \$2,000 to the**
2 **Heritage Festival, seconded by Council Member Abraham.**
3

4 Council Member Blair expressed his concern that once a precedent has been set for donating money the
5 City will be inundated with requests. Council Member Laputka noted that this event has managed to
6 garner so much support that it “puts them into a different status.” He said that he has seen such actions in
7 the past. Council Member Allebach concurred that the City has helped to sponsor events in the past. He
8 suggested that it should have been budgeted as a sponsorship.
9

10 Council Member Pupello recalled that Council had donated \$500 a couple of years ago to a bowlers
11 group.
12

13 **Motion passed by 6/1 roll call vote of the Council with Council**
14 **Member Blair voting “no.”**
15

16 Council Member Abraham questioned whether the City Charter allows the City Manager to hire an
17 attorney on her own. Mr. Reischmann responded that the Charter contemplates that the Council shall hire
18 a City Attorney. The Charter does not speak to the issue of what types of contractors or professionals the
19 City Manager can retain to provide the services that she is obligated to perform. He said that in his
20 opinion, it is within the Manager’s discretion “to determine what types of expenditures, as long as it’s
21 consistent with the purchasing policies, what kinds of expenditures are made to achieve the tasks that are
22 within her responsibility under the charter and the code and the direction of the Council.”
23

24 Council Member Abraham said that he tried to find out under what conditions a labor attorney was hired
25 and how much the city will have to pay and that he was told that no information was available because no
26 invoice has been received yet. He stated, “The City Manager knows it in her mind was the answer. I
27 think this Council also should know what is in the mind of the City Manager, that’s all.” Ms. Croteau
28 responded, “I don’t think I made the comment that it was in the mind of the City Manager.” She said that
29 she advised the City Clerk that an invoice for January had not been received as yet. Ms. Croteau said that
30 the City had been using Attorney David Young for labor issues with the full support of Mr. Reischmann’s
31 firm.
32

33 Council Member Blair asked for an update on Mill Lake. Ms. Croteau responded that the City is still
34 waiting for DOT to clear the easements. Follow-ups are conducted on a regular basis. The agreement will
35 be finalized once the easements are cleared. Initial work has been done with Engineer David Hamstra so
36 that the City will be ready to begin as soon as the agreement is finalized.
37

38 In response to a question from Council Member Blair, Paul Johnson stated that the easements in question
39 are for the outfall pipeline that runs from Mill Lake to the St. Johns River. The line is to be used in case
40 of an emergency. Mr. Johnson explained that a couple of the easements that go through state property are
41 “non-transferrable.” He said that he received word from DOT that they have submitted their surveyors’
42 documentation and language regarding those parcels to the State and they are now with General Counsel
43 for approval. The transfer should follow the approval.
44

45 Council Member Blair asked for an update on Miller Lake. Mr. Johnson responded that it is “moving
46 along pretty good” and that the County has control of the project at this point in time. Appraisals are
47 being conducted on the property and some of those are being met with resistance from some of the
48 property owners.

1 Council Member Blair asked for an update on the path from Valentine Park to the trail head. Ms. Croteau
2 said that Mr. Johnson would check on it and report back at the next meeting. Council Member Blair
3 stated, "That's a very dangerous place and something needs to be done there."

4
5 **B. Mayor/City Council**

6
7 Council Member Allebach discussed a pool of funding from TPO referred to as "XU" which can be
8 awarded to municipalities for projects related to school safety. Proposals will be accepted twice a year as
9 opposed to once. Council Member Allebach suggested that the City could apply for funds to fix Blue
10 Spring from 17-92 to Scholar's Path. He advised that \$22M has been allocated to the fund and they are
11 now in need of projects. Council Member Allebach noted that Bob Storke, the City's representative on
12 the TPO and Bike/Ped Taskforce has an attendance rating of over 90% every year. He thanked Mr. Storke
13 for his work. Council Member Allebach suggested that DOT should help with the cost of restoring French
14 Avenue into Blue Spring State Park. Some ideas under discussion by the TPO are to combine traffic and
15 land use. He stated, "They used to always have the traffic guys worry about getting traffic run through
16 town while land use was trying to figure out how to keep people in town. It sounded contradictory. So
17 now, I think there's some progression which is what we're working on on 17-92...not to just have people
18 drive through, but somehow create that synergy." He urged the City to get some projects on the list.

19
20 Vice Mayor Crippen said that he attended the VCOG meeting last week. A presentation on TABOR was
21 provided. He said that in Florida this movement is known as "Smart Caps." He said that he attended the
22 Florida Economic Report breakfast with the City Manager last Friday. Most of the discussion centered on
23 the east side of the County. He said that the report would be available in the Clerk's office.

24
25 Council Member Laputka discussed his trip to Tallahassee. He said they were invited by Senator Hayes to
26 address the Senate Budget Committee regarding funding for DEP. The subject was the recent EPA
27 mandates imposed on Florida regarding nutrient cleanup in stormwater runoff. There was a request for
28 \$130M from the State just to study the program. The program would cost billions of dollars. Council
29 Member Laputka advised that he was accompanied by Michael Wright. Senator Hayes is the Chair of the
30 budget committee. Council Member Laputka said that the opportunity was also used to discuss some of
31 the issues with the St. Johns Water Management District. He expressed that the District has no
32 accountability.

33
34 Council Member Blair recalled that several months ago, the Mayor asked him to be the liaison to the
35 Orange City Historic Board. He said that he "has gotten nowhere with it." He said that he would like to
36 recuse himself from that role. Council Member Blair expressed his feelings that nothing is happening in
37 the realm of historic preservation in the City. He said that he is "really not interested in playing that role
38 any further."

39
40 **C. City Clerk**

41
42 Ms. Renner thanked Mr. Johnson and Todd Jorgenson for arranging for the new windows in her building,
43 stating that they look "absolutely gorgeous."

44
45 **D. City Attorney**

46
47 The City Attorney wished the City Manager an early 29th birthday.
48

1 **11. APPROVAL OF MINUTES:** (*Consent Agenda*)

2

3 **12. COUNCIL COMMENTS**

4

5 Council Member Blair gave kudos to the Fire Department for their response to a call at his residence.

6

7 Council Member Laputka stated that he was happy for the Heritage Festival Committee and told them
8 they can pick up their funds “whenever.” He thanked the citizens who have assisted with planning for the
9 festival. He stated, “I hope everyone attends on the 26th”

10

11 Council Member Allebach emphasized the importance of working hard to get out of the recession. He
12 thanked staff again for their involvement in the Manatee Festival.

13

14 Vice Mayor Crippen said that the Manatee Festival was “great” and that this was his first time attending.
15 He said that he looks forward to next year.

16

17 Council Member Abraham said that he heard about the Staples in Orange City closing. He noted that
18 several employees lost their jobs. Council Member Abraham stated, “We are not heading in the direction
19 of a complete recovery from recession. So this Council has to be responsible and keep an eye on our
20 budget money.”

21

22 Mayor Strickland said that he was pleased to see the number of people in the audience tonight.

23

24 **13. ADJOURN**

25

26 There being no further business, Mayor Strickland adjourned the meeting at 10:10 p.m.

27

28 Respectfully Submitted,

29

30

31 _____
Deborah J. Renner, CMC

32 City Clerk

33

February 22, 2011

Date