

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,
2 Florida, held on Tuesday, September 26, 2006, 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 Erwin and roll call was taken.

8
9 **ROLL CALL**

10
11 PRESENT: Mayor Albert T. Erwin; Vice-Mayor Chuck Abell, Council Members Anthony R.
12 Yebba, Jeff H. Allebach, Donald C. Sherrill, Joelle R. DeVane, Jim Mahoney; City
13 Manager John. J. McCue; City Attorney William Reischmann; City Clerk Deborah
14 Renner

15
16 The Invocation was given by Council Member Yebba, followed by the Pledge of Allegiance.

17
18 **1. SPECIAL PUBLIC HEARING AND FINAL ADOPTION OF THE BUDGET &**
19 **MILLAGE RATE FOR FISCAL YEAR 2006/2007**

20
21 **MAYOR'S OPENING COMMENTS:**

22
23 Mayor Erwin read the following statement into the record: "The City of Orange City intends to adopt
24 a budget and millage rate for Fiscal Year 2006/2007. The proposed millage rate is 4.87506 mills
25 which reflects a 19.88% increase over the roll-back rate of 4.06661 as provided by the Property
26 Appraiser of Volusia County."

27
28 ***SPECIAL PUBLIC HEARING/SECOND READING:***

- 29
30 **A. ORDINANCE NO. 281:** An ordinance of the City of Orange City, Florida, certifying
31 the millage rate for fiscal year 2006-2007 on all taxable property located within the
32 City of Orange City, Volusia County, Florida; containing a repealer provision; a
33 severability clause and providing for an effective date.

34
35 Mayor Erwin read the title of Ordinance No. 281 into the record and opened the public hearing by
36 asking if anyone wished to speak in favor of or in opposition to the proposed ordinance. No one
37 appeared. The Mayor closed the public hearing.

- 38
39 **B. ORDINANCE NO. 282:** An ordinance of the City of Orange City, Florida, adopting
40 the annual budget for the 2006-2007 fiscal year beginning October 1, 2006, and
41 ending September 30, 2007; authorizing subsequent amendments by resolution;
42 repealing all inconsistent ordinances or parts thereof; and providing for an effective
43 date.

44
45 Mayor Erwin read the title of Ordinance No. 282 into the record and opened the public hearing by
46 asking if anyone wished to speak in favor of or in opposition to the proposed ordinance. No one
47 appeared. The Mayor closed the public hearing.

1 **Vice-Mayor Abell moved to adopt Ordinance No. 281 on second**
2 **and final reading, seconded by Council Member Yebba, and**
3 **passed by unanimous 7/0 roll call vote of the Council.**

4
5 **Vice-Mayor Abell moved to adopt Ordinance No. 282 on second**
6 **and final reading, seconded by Council Member Sherrill.**

7
8 Council Member Mahoney inquired if Mr. McCue had received any feedback from developers
9 “shying away” from development plans that would affect the 2006-2007 budget. He referenced an
10 article he read about the contributing factors for homebuilders walking away from projects. Mr.
11 McCue responded in the negative stating that the City has actually experienced the opposite. He
12 noted that many developments are on hold pending approval of the City’s Comprehensive Plan
13 Amendment. Once approved, the developers will move quickly to complete projects.

14
15 **Motion passed by unanimous 7/0 roll call vote of the Council.**

16
17 **1. PRESENTATIONS:** Chief Baskoff

18
19 Police Chief Jeff Baskoff came forward and stated there have been numerous complaints from
20 citizens about illegal activity such as drugs and prostitution on South Orange and East Blue Springs
21 Avenues. He said that the Police Department (PD) has used all of their resources, and has received
22 assistance from the County as well, to address this situation. As a result, there have been
23 approximately ten to fifteen drug and six to eight prostitution arrests within the last month. The Chief
24 said the property owners have given the PD permission to issue trespass warrants to remove
25 individuals from their property and that PD is now issuing trespass warnings to individuals in City
26 parks.

27
28 Chief Baskoff said that the PD is planning reverse stings on Thorpe and a couple of other areas in the
29 City. In addition, they are trying to get the community involved by putting together “neighborhood
30 watches”.

31
32 Vice-Mayor Abell asked what procedures the City has at its disposal to recognize a house as a “crack
33 house” and close it down. He referenced a house on Orange Avenue that is an “obvious drug house”
34 in that there are at least 30 individuals hanging out at all times of the day. Chief Baskoff responded
35 there is nothing the Police can do unless it can be proved that the drugs are coming from the home
36 and that the homeowner is aware of it. He said that if they do find drugs, they can notify the owner
37 that their house is being used for illegal drug activity. If another arrest takes place after that
38 notification, the City can then try to invoke forfeiture on the house.

39
40 Mr. McCue commented that in order to pursue forfeiture proceedings on the house, the owner has to
41 have knowledge of the illegal activities taking place. Mr. McCue said that the Chief and his staff
42 have gone to the homeowners and talked to them individually to obtain trespass warrants. He noted
43 PD is “actively and successfully” pursuing arrests. However, once released, individuals are back to
44 the same activity at the same location. The Chief said that he is also trying to establish neighborhood
45 watch areas.

46
47 Mayor Erwin referenced Mr. McCue’s comment that the perpetrators return to their illegal activities

1 and expressed his opinion that they should be arrested as many times as necessary. The Mayor stated
2 “Maybe after you arrest them a dozen times they’ll get the message.”

3
4 Mayor Erwin recognized Charles Paiva, Candidate for the 1st District County Council seat, in the
5 audience.

6
7 **2. CITIZENS COMMENTS:** None at this time.

8
9 **3. CONSENT AGENDA:** None at this time

10
11 **4. ORDINANCES – FIRST READING:**

12
13 **A. ORDINANCE NO. 279:** An ordinance of the City of Orange City, Volusia County,
14 Florida; amending Orange City Code Appendix A, Zoning Ordinance as adopted by
15 Ordinance No. 157, amending Chapter 2, Section 2.2., Specific Terms Defined,
16 amending the definition of “Hotel” to delete the reference to “Tourist Court” and to
17 create a new definition “Tourist/Travel Court”; amending Section 8.6.1 Schedule of
18 Zoning District Permitted and Conditional Uses; providing for conflicting ordinances
19 and setting an effective date.

20
21 **Council Member Sherrill moved to adopt Ordinance No. 279 on first**
22 **reading, seconded by Council Member DeVane.**

23
24 Elaine Wilson, Planning and Zoning Analyst, came forward and stated that the Planning Commission
25 held a public hearing on Ordinance No. 279. The Commission is recommending that Council adopt
26 the version of Ordinance No. 279 marked “Alternate Number 2” in the agenda packet because it is the
27 most flexible. Ms. Wilson explained that this alternative requires the Planning Commission to set a
28 time limit on length of guest stay when approving a conditional use for a tourist/travel court. The
29 Commission felt that having one set length of stay was too restrictive and preferred to set a time limit
30 on a case-by-case basis.

31
32 Mayor Erwin expressed his concerns about the Bed and Breakfast becoming a “boarding house.” He
33 said that the proposed ordinance should protect against that. Mr. Reischmann reiterated that the
34 proposed ordinance would require a conditional use for any type of tourist/travel court in the OT
35 district, along with a defined maximum length of stay to be set by the Planning Commission. Mayor
36 Erwin clarified that the length of stay restriction would only apply to the tourist/travel court. Mr.
37 Reischmann noted that a tourist/travel court could only be located in the OT district.

38
39 Council Member Mahoney asked whether there were any limitations on the upper end of the length of
40 stay. Mr. Reischmann responded in the negative and stated that it would be defined in the conditional
41 use. Council Member Mahoney expressed his concern that the proposed regulations would allow a
42 person to establish residency at the Bed and Breakfast. Mr. Reischmann responded that Alternate
43 Number 2 requires that the Council have some degree of confidence and trust in the Planning
44 Commission’s ability to set appropriate limitations. Council Member Mahoney expressed his support
45 for a specified limit on the length of stay. Ms. Wilson stated that staff and the Commission felt that
46 the inclusion of the word “transient” in the definition would preclude permanent residency.

47

1 Council Member Yebba suggested giving the Commission the authority to set the time limit on length
2 of stay but to include a maximum in the ordinance. Mr. Reischmann advised Council the best way to
3 include a guest length of stay would be to amend the table in Section 8.6.1, adding a sentence
4 providing that any conditional use for a tourist/travel court must include a limitation of the length of
5 guest stay not to exceed 90 days.

6
7 **Council Member Allebach moved to amend Section 8.6.1, Schedule of**
8 **Zoning District Permitted and Conditional Uses, to limit the**
9 **maximum length of stay to be granted to a Tourist/Travel Court by a**
10 **conditional use to a period not to exceed 90 days, seconded by Council**
11 **Member Yebba and passed by unanimous 7/0 roll call vote of the**
12 **Council.**

13
14 **Ordinance No. 279 passed as amended on first reading by unanimous**
15 **7/0 roll call vote of the Council.**

16
17 **5. PUBLIC HEARINGS/ORDINANCES – SECOND & FINAL READING:**

18
19 **6. RESOLUTIONS:**

- 20
21 A. **RESOLUTION NO. 369-06:** A resolution of the City Council of the City of Orange
22 City, Florida, adopting a revised rate and fee structure for water and wastewater
23 services provided by Orange City Utilities; and repealing Resolution No. 364-06;
24 providing for conflicts; providing for severability; and providing an effective date.

25
26 **Council Member DeVane moved to approve Resolution No. 369-06,**
27 **seconded by Council Member Sherrill.**

28
29 Mr. McCue stated the purpose of the agenda item is to make sure the City complies with the public
30 notification requirements in State Statute. He said that staff is not recommending any changes to the
31 rates previously approved by Council.

32
33 Hugh Strickland, 420 May Street, came forward and asked Council to consider a water rate structure
34 with non-residents paying a slightly higher rate than tax-paying residents of the city. He stated that
35 he was not opposed to increasing the rates, but given the increase in the property tax rate for city
36 residents, he suggested that non-residents should be charged higher rates in order to create more
37 equity. Mr. Strickland stated, "That means every property owner subsidizes the outside-the-city
38 limits-folks and has for years." Mayor Erwin noted that the utility system is set up as an Enterprise
39 Fund and as such, is self-sufficient. The Mayor stated that no general funds go into the Enterprise
40 Fund, it is strictly funded from revenue collected by selling water. Mr. McCue concurred and noted
41 that, in fact, the Water Utility contributes \$140, 000 to the General Fund every year.

42
43 Council Member Mahoney asked about the merit of the suggestion of a tiered rate structure. Mr.
44 McCue responded that Florida Statute defines a municipality's service area. He said that at one time,
45 cities used a tiered system to encourage annexations, however, that practice is no longer followed.
46 Mr. McCue noted that less than 10% of Orange City's customer base is outside the city limits. Mr.
47 McCue stated, "Just to reaffirm, one of the things we do not do is subsidize our utility with property

1 taxes. We do not do that at all and can't do that under our general accounting principles.”

2
3 Mr. Strickland expressed concern over the age of the water system infrastructure and predicted
4 “catastrophic failures.” Mr. McCue concurred with Mr. Strickland’s statement and stated that was
5 the driving factor for adopting a new rate.

6
7 **Motion passed by unanimous 7/0 roll call vote of the Council.**

8
9 **7. DISCUSSION AND ACTION:**

10
11 A. City Clerk’s Annual Evaluation

12
13 Mayor Erwin noted that he had provided Council with a Performance Review form for the City
14 Clerk’s evaluation. The Mayor reviewed the summary of evaluations and stated that Ms. Renner’s 4.3
15 overall rating placed her in the above-average category.

16
17 **Vice Mayor Abell moved to increase the City Clerk’s annual**
18 **salary by 2.9%, seconded by Council Member Sherrill.**

19
20 Council Member Mahoney said that he thought Ms. Renner does a great job. He noted she is often a
21 citizen’s only contact to city services and she is a good reflection on Orange City.

22
23 Council Member DeVane noted that she felt the percentage should be a little higher. She said the
24 average merit increase for City employees is 3% and feels that Council should be consistent.

25
26 **Both the motion maker and seconder withdrew their motion and**
27 **second.**

28
29 **Vice-Mayor Abell moved to increase the City Clerk’s annual**
30 **salary by 3%, seconded by Council Member Sherrill.**

31
32 Council Member Yebba said “I have worked with a bunch of city clerks and you have, too, Mr. Mayor
33 and in my opinion, Ms. Renner is the best of the best.”

34
35 Mayor Erwin concurred with Council Member Yebba that Ms. Renner does a great job. He stated, “I
36 agree with Mr. Yebba. We have had a number of city clerks and there is no doubt in my mind that she
37 stands head and shoulders above anyone we have had up to this point in time.”

38
39 **The motion passed by a 7/0 voice vote of the Council.**

40
41 **B. Agreement for Professional Services with Miller, Legg & Associates**

42
43 Mr. Reischmann stated the City has contracted the services of Kelly Eger, R.E.M., Vice President,
44 Miller Legg and Associates to monitor the GEL closure. He said that Ms. Eger has provided the City
45 with a perspective on the GEL closure that it would not otherwise have. Mr. Reischmann said that he
46 received a letter from the DEP indicating that they will be monitoring the closure of the landfill very
47 closely and attributed this to the work of Ms. Eger.

1
2 Mr. McCue noted there is a \$4,000 balance remaining on the \$20,000 contract previously authorized
3 by Council. He explained that Ms. Eger's services in this matter are billed on a "pay as you go"
4 approach versus a set fee and suggested that more than the remaining \$4,000 may be needed to see the
5 project to conclusion. Mr. McCue stated, "I concur with Mr. Reischmann 100%. We've gotten more
6 movement out of the DEP since she's been aboard then we had all previous years."

7
8 Mayor Erwin concurred with Mr. McCue. He noted a definite change in attitude in dealing with the
9 DEP over the last year and a half since Ms. Eger has been on board. Mayor Erwin stated, "I think this
10 is one particular case where we are certainly getting our money's worth and I would certainly be in
11 favor of continuing to do business with Ms. Eger and keep that ball rolling."

12
13 Mr. Reischmann noted that the City is also working with a different representative at the DEP and
14 that he appears to be giving serious consideration to some of the issues raised by Ms. Eger and the
15 City.

16
17 **Council Member DeVane moved to continue the Agreement for**
18 **Professional Services with Miller Legg and Associates for up to**
19 **an additional \$20,000, seconded by Council Member Allebach**
20 **and passed by a 7/0 voice vote of the Council.**

21
22 BEGIN TAPE 1-B

23
24 C. Hazard Mitigation Grant Authorization

25
26 Paul Johnson, Public Works Director, came forward and noted that staff has been working for some
27 time to construct an automatic pumping station at the City's retention pond on N. Industrial Drive.
28 He noted he has received notification from FEMA and the Department of Community Affairs that
29 they will fund this project. The engineering portion which was required to submit the application for
30 funding has been completed. Mr. Johnson said that this is "the first piece of the puzzle" and that
31 additional grant funding should be forthcoming as the project proceeds. Mr. Johnson advised that
32 FEMA will pay for 75% of the project which is estimated to cost \$90,000. He stated that funding for
33 the project is included in the FY 06/07 budget. Mr. Johnson stated that he is requesting that Council
34 authorize the Mayor to sign the agreement.

35
36 Vice-Mayor Abell inquired if the new pumping station would handle a major rain event. Mr. Johnson
37 responded that occasionally there might be some minor flooding. He said that the new station will
38 help with labor in that it won't be necessary to send employees out to manually operate the station on
39 a continual basis.

40
41 Mayor Erwin noted that the current pump at that location was installed as a "temporary fix" ten years
42 ago. He stated, "I guess it is time we replaced it."

43
44 **Council Member Sherrill moved to authorize the Mayor to sign**
45 **the Agreement between the State of Florida Division of**
46 **Emergency Management and the City of Orange City, seconded**
47 **by Council Member Allebach and passed by a 7/0 voice vote of**

1 **the Council.**

2
3 **8. REPORTS:**

4
5 A. City Manager

6
7 Mr. McCue reported that the fountains have been installed in Dickinson Park. Mr. Johnson said that
8 the work should be completed by the end of next week. Mayor Erwin suggested that a notice be
9 placed on the fountains noting that the water is recycled water and is not suitable for drinking. Mr.
10 McCue said that the fountains have a direct feed from the City's water system and are equipped with
11 pumps to empty the water out when it needs to be cleaned. Mr. McCue advised that the splash pads,
12 when installed in Rotary Park, will have the same filtration system as found in a pool. He concurred
13 with the Mayor Erwin that a warning sign would be wise.

14
15 Council Member DeVane recognized the Public Works Department and everyone else who has
16 worked on the fountains for their hard work. She noted that they have been working weekends to
17 complete the job.

18
19 Mr. McCue reported that the County Council held a public hearing on the City's COPCN application
20 last Thursday and that Mayor Erwin did a great job of stating the City's position in front of the
21 Council. He stated that the Council approved the City's COPCN contingent on the execution of an
22 EMS Closest Unit Response Agreement. In addition, the City will work with County staff over the
23 coming months to regionalize fire services in this area. Mr. McCue advised that the City will most
24 likely move into Station 31 on U.S. 17-92 and may possibly contract to provide fire services to the
25 City of DeBary. Mr. McCue advised that even though the COPCN was issued, the City has
26 committed in writing to negotiate the agreement and that it will be presented to Council prior to
27 execution. In conclusion, Mr. McCue stated, "It's a good resolution to a very significant issue." He
28 said that he anticipated reaching an agreement within three months. Vice Mayor Abell noted that the
29 County is currently negotiating a similar agreement with Edgewater.

30
31 Vice Mayor Abell asked when the microphone on the speaker's lectern would be replaced. Mr.
32 McCue responded that it is in the FY 06/07 budget.

33
34 Council Member Sherrill thanked Mr. McCue for the announcement regarding city employees Linda
35 Snyder and Wendy Hickey who recently obtained their Associate of Arts degrees. He noted the City
36 has other employees who take educational courses and said that it is appreciated and encouraged.
37 Council Member Sherrill congratulated Ms. Hickey and Ms. Snyder.

38
39 B. Mayor/City Council

40
41 Mayor Erwin reported that he attended a VCOG meeting last night. He said that he received a copy
42 of the Fire Employment Selection Service (FESS) report and that the report indicated that Orange
43 City hired four EMT/Firefighters through FESS. He recalled that at a previous Council meeting, it
44 was stated that the City does not hire through FESS. Herb Hoffman, Fire Chief, responded that the
45 City first tries to fill vacancies from within. It just so happened that the four new-hires were in the
46 FESS program. The Chief stated that all volunteers are encouraged to be tested through FESS. Mr.
47 McCue clarified that FESS was designed to provide a pool of applicants to fill Fire/EMS positions.

1 He said that Orange City has its own pool and then sends its candidates to FESS for testing prior to
2 hiring them. He suggested that the City will likely make more use of FESS services as it moves
3 toward regionalization.
4

5 Mayor Erwin commented that there were several presentations at the VCOG meeting. While they
6 pertained to the conditions on the east side of the county, they were informative. Mayor Erwin
7 commended Mary Swiderski, Executive Director of VCOG, on the conduct of the meetings, stating
8 that there has been an organized presentation at every meeting. He said that he appreciates Ms.
9 Swiderski's efforts and that the meetings have become more interesting. The Mayor noted that at the
10 October meeting, there will be a presentation on motor vehicle accident prevention. He suggested
11 that a representative from the Police Department may want to take part in that presentation.
12

13 Mayor Erwin noted there is a WAV meeting tomorrow and expressed his assessment that WAV is
14 "dead." He said there would be no definite action taken at tomorrow's meeting. There will be a
15 report from the Manger's Advisory Committee with recommendations as to WAV's future direction.
16 In addition, there will be a report from the consultant hired to evaluate funding.
17

18 Mayor Erwin reminded everyone about the Volusia League of Cities dinner at John Knox Village on
19 Thursday. He announced that Orange City will host the next summit meeting on Saturday, October 7
20 and stated that he would like to see a good representation from Orange City. At the meeting, there
21 will be a presentation on the proposed County Charter amendments with presentations on both sides
22 of the issue. Due to time constraints, there will not be any questions or debate on this issue. Also on
23 the agenda will be a discussion on WAV and possible alternatives to water issues in West Volusia. In
24 addition, a discussion will be held on the Freedom Festival.
25

26 Vice Mayor Abell reported that at the MPO meeting this morning there was discussion regarding the
27 traffic situation during rush hour at the west bound I-4 ramp on Saxon Boulevard. He advised that
28 DOT is considering putting a left turn arrow at the location.
29

30 Council Member Yebba reported he attended a meeting of the Partnership Center Operating
31 Committee. The Committee is currently considering alternatives for walls, flooring and ceilings.
32 There will be another meeting this Thursday. Council Member Yebba advised that he also attended
33 the Florida League of Cities Urban Planning Legislative Committee meeting. He said the committee
34 is looking at issues to put before the legislature. About twenty possibilities were discussed and the
35 list will be finalized during meetings in October and November. Council Member Yebba stated that
36 the big topic is "Home Rule" and how the County Charter initiatives that are going on around the
37 State are eroding municipal home rule. Council Member Yebba noted that the city of DeLand had
38 representation on all of the sub committees.
39

40 Mayor Erwin asked whether construction on the Partnership Center was still scheduled to begin in
41 February. Council Member Yebba responded that is the goal, but since the contractor backed out,
42 there could be a slight delay.
43

44 C. City Clerk

45

46 City Clerk Renner reminded council members about the Special Meeting/Executive Session
47 scheduled for Monday, October 2nd.

1
2 D. City Attorney

3
4 The City Attorney had no report

5
6 **9. APPROVAL OF MINUTES:** September 12, 2006 Regular Council Meeting
7 September 13, 2006 Budget Hearing

8
9 **Vice-Mayor Abell moved to approve the minutes of the**
10 **September 12, 2006 Regular Council Meeting, and September**
11 **13, 2006 Budget Hearing, seconded by Council Member DeVane.**

12
13 Council Member Mahoney noted a correction to the September 12th Regular Meeting minutes, page
14 9, line 12 as follows: "Council Member Mahoney said that he was willing to assume the risk of
15 giving back the money." should read, "Council Member Mahoney said that he is willing to assume
16 the risk of not giving back the money." He clarified by stating, "That risk being the ten-year
17 restrictive covenants on future work."

18
19 **The minutes as amended were approved by unanimous 7/0 voice**
20 **vote of the Council.**

21
22 **10. COUNCIL COMMENTS**

23
24 Council Member Sherrill asked when DeBary Art League is coming back to Council. Mayor Erwin
25 responded that he is waiting for further information from them. They requested some additional time
26 to get that information together.

27
28 Council Member Allebach commented he was surprised that no one came forward to speak about the
29 property tax rate. He stated, "I guess Orange City is going the right direction."

30
31 Council Member Yebba said he just returned from a military reunion in Cleveland and noted
32 Cleveland is a clean city but he noticed there was no rush hour. He said "I am assuming now, we
33 have such a rush hour in Orlando, that they have all moved and are down here."

34
35 Council Member Mahoney stated, "I was concerned at our last meeting regarding ALS on the
36 southern side of the City. Your reports tonight have helped mitigate those concerns. Thanks for the
37 efforts."

38
39 **11. ADJOURNMENT**

40
41 There being no further business, Mayor Erwin adjourned the meeting at 8:12 p.m.

42
43 **RESPECTFULLY SUBMITTED:**

APPROVED ON

44
45
46 Deborah J. Renner, CMC
47 City Clerk
