

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,
2 Florida, held on Tuesday, January 23, 2007 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 Anthony R. Yebba, Council Members Jeff H.
12 Allebach, Donald C. Sherrill, Joelle R. DeVane, Jim Mahoney; Robert A. Storke;
13 City Manager John. J. McCue; City Attorney William Reischmann; City Clerk
14 Deborah Renner

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

17
18 Mayor Erwin noted that agenda item 7-A, Waste Management Update, will be moved forward on
19 the agenda to follow citizens comments.

20
21 **1. PRESENTATIONS: Years of Service Awards**

22
23 Pennie Traber, Human Resources Coordinator came forward and presented service awards for 2006.

24
25 Commander Thomas came forward to accept awards for employees from the Police Department that
26 were not in attendance. The following employees received years of service awards: Sgt Greg
27 Lariscy (5 years), Connie Robertson (10 years), Officer Jason Ward (5 years), and Lt. Greg Melvin
28 (5 years).

29
30 Paul Johnson, Public Works Director, came forward to accept an award for 5 years of service.
31 Darren Romeo, Public Works and Kenneth Arrington, Utilities departments came forward and were
32 also presented with 5 year service awards.

33
34 Mayor Erwin came forward and presented a 5 year service award to John McCue, City Manager.

35
36 **2. CITIZENS COMMENTS:**

37
38 Ron Saylor, 361 Dixon Street came forward and expressed concerns about the Strategic Plan he
39 received in the mail. He noted that most citizens in his neighborhood do not understand what it is.
40 He stated, "If you are going to spend money for something out of my tax dollars, put it to something
41 that I can understand." Mr. Saylor suggested that the book needed an explanation and suggested that
42 it was a "waste of taxpayer dollars." He cautioned that if the City must do this again to do it in a
43 way that the people can understand.

44
45 Linda Kownacki, 414 May Street, came forward to discuss the Strategic Plan. She thanked the
46 Mayor and the Vice-Mayor for responding to her emails. Ms. Kownacki said that she received the

1 Strategic Plan dated August 2006 in January 2007 and noted there is no priority assigned to the
2 residential garbage contract negotiations in the plan. She stated that she had attended several
3 meetings regarding this matter and was advised that the City is working on it. Ms. Kownacki said
4 that the residents of Orange Tree Village received a cut in service to once a week and in return, their
5 bills stayed the same. She said that any increase would be a hardship to the people. She said that
6 when the recyclables were picked up at her house this week, they were mixed in with the garbage.
7 Ms. Kownacki noted that the City receives a 10% fee on residential garbage service and stated, "So
8 you're getting 10% and we're getting nothing."
9

10 **7-A Waste Management Update (moved forward on the agenda)**

11

12 John McCue, City Manager, discussed the renegotiation with Waste Management. He advised that
13 there are three items that could reduce the cost of the garbage service: (1) reducing the level of
14 service from 2/1/1 to 1/1/1, (2) reducing the City franchise fee from 10% to 5% and, (3) billing for
15 the service through ad valorem taxes. Mr. McCue said applying all three options will reduce the
16 monthly fee from \$30.55 to \$23.07 and that staff is recommending adoption of all three options. If
17 Council so directs, first and second reading of the ordinance to adopt the amendments will be
18 February 13th and February 27th .
19

20 Doris Jahnke, 325 E. French Avenue, came forward and read a written statement regarding Waste
21 Management into the record (a copy of which is attached and becomes a permanent part of these
22 minutes).
23

24 Hugh Strickland, 420 May Street, came forward and expressed concerns that his recyclables were
25 picked up and mixed in with his regular trash. He said that when he questioned the Waste
26 Management employees he was advised that their supervisor told them to do it because they were
27 behind schedule. Mr. Strickland said he has been monitoring this activity over a period of time and
28 that he has received the same answer from Waste Management each time. Mr. Strickland stated,
29 "That, to me, constitutes a policy that breaches the contract." Mr. McCue responded that he would
30 make sure it didn't happen any more.
31

32 Robert Shirk, 2872 Doe Run Trail, came forward and noted his concerns with the high rate that
33 Waste Management is charging. Mr. Shirk said that he couldn't understand why the cost was higher
34 after the contract was put out for bid. He noted that Waste Pro would have provided the service for
35 \$4 less per person. He said it would be a hardship on the senior citizens on social security and other
36 families on a fixed income and spoke in favor of any break that the City can provide to these
37 citizens.
38

39 David Seaman, 956 E. Lansdowne Avenue, came forward and said he was glad that Council directed
40 the City Manger to re-negotiate the terms of the Waste Management contract. Mr. Seaman noted
41 that the City has already entered into a contract with Waste Management and they do not have to
42 negotiate further if they don't want to. He said that he did research and going from twice weekly to
43 once weekly pickups would probably reduce the bill by about \$1.15. Mr. McCue responded that it
44 was \$4.50. Mr. Seaman said that ad valorem billing prevents non-payment of the bill and associated
45 fees that would be passed on to the paying customers at the end of the contract. He noted that the
46 State has mandated trash pickup and the City has required that of every citizen. Mr. Seaman

1 suggested that when it is time to negotiate a new contract, it should be negotiated as an exclusive
2 contract for both commercial and residential. He expressed his hope that Council would implement
3 the current suggestions.

4
5 Mr. McCue clarified that Mr. Seaman was talking about melding the residential and commercial
6 contracts. He advised that staff has done research about that and stated that it would be coming
7 forward in the future.

8
9 Mike Pickus, 385 Collins Court, came forward and said that he is in full agreement with Mr.
10 Seaman. He noted that the City's demographics are changing and the city is no longer a retirement
11 community. Mr. Pickus spoke in support of ad valorem billing and expressed his opinion that the
12 seasonal residents are a minority and that they should be subject to paying their garbage bill all year
13 as is everyone else. He said that he felt the City could have done better in their negotiations with
14 Waste Management and urged the City Manager to negotiate further.

15
16 Teresa Stellato, 630 S. Carpenter, came forward and said that Mr. McCue was wrong when he said
17 that residents have not received an increase in their garbage rates and asked why this was allowed
18 when a contract was in place. In response to a question from Ms. Stellato, Mr. McCue stated that
19 the City received \$21,000 in franchise fee revenue from Waste Management last year and that the
20 City would claim about the same amount this year as he was recommending that the rate be cut in
21 half.

22
23 David R. Durant, 415 Clark Street, came forward and stated that he was born in Orange City and
24 that most of his family lives here today. He commended the Council for the improvements that have
25 been made throughout the City. Mr. Durant said that when making a decision, Council must
26 consider the "least of its citizens." He urged Council to take the time to "look at the full picture."
27 He related specific problems he has had with Waste Management and questioned whether issues
28 should be brought to the City or to the Company for resolution. Mr. Durrant questioned whether
29 there would be a discount for early payment. He also asked whether a citizen could "opt out" of the
30 garbage service.

31
32 Susanne Brant, 248 E. Cherokee Avenue, came forward and suggested that Council consider
33 reducing the 10% Waste Management franchise fee to zero. Council member Mahoney stated that
34 he would be making that recommendation.

35
36 Magdalene Teston, 973 Garden Lane, came forward and stated that she is a single mom, taking care
37 of her elderly mother and father. She noted that her neighbors are sick and not able to attend these
38 meetings to voice their concerns. She spoke of the hardship of paying the increased garbage bills
39 and discussed problems with the service she has received from Waste Management. Ms. Teston
40 suggested that the garbage collection fees be included in the water bill.

41
42 Al Blue, 447 N. Oak, came forward and stated that he read the City Code regarding garbage and it
43 gives the City options.

44
45 BEGIN TAPE 1-B
46

1 The first option is for the City to collect the garbage itself. The second option is to enter into a
2 contract with a service provider. Mr. Blue noted that two-thirds of the City's residents pay a 20%
3 franchise fee on garbage service while the remaining third pay 10%. He recommended elimination
4 of the franchise fees entirely. He said that City contracts should be written in agreement with City
5 code and that a contract should not repeal an existing ordinance. Mr. Blue recommended
6 terminating the Waste Management contract and allowing multiple permittees as provided for in
7 Chapter 6 of City Code to provide garbage service. He said that the City has ample time to notify
8 those who have not paid their garbage bills and has the authority to impose a fine on them. Mr. Blue
9 questioned how many delinquent accounts were reported to the City in order to accumulate \$87,000
10 in bad debt. He also questioned how many people's bills were paid by the City in accordance with
11 the garbage contract and how many legal proceedings were initiated by the City to enforce payment.
12 In conclusion, Mr. Blue stated that the contract states that citizens will be charged for services
13 performed. He noted that business law dictates that a person does not have to pay for services not
14 received. He stated, "The idea of making the garbage bill a property tax and pay the County to
15 collect the money is diametrically opposed to those two premises. Waste Management, in the
16 meantime, is laughing all the way to the bank." Mr. Blue suggested that the City act as the
17 collection agent for garbage fees.

18
19 Denny Donnell, 2841 Stags Leap, came forward and said that he learned that any time a City puts a
20 fee on any service, it's a "back door tax" to the people. He called the franchise fee another tax and
21 another way to "steal money from the people that you represent." Mr. Donnell noted the
22 discrepancy between what the people in the mobile home parks pay and what the residents in single
23 family homes pay and stated, "I want my garbage bill to match their garbage bill." He suggested
24 that the Homeowners Association in Fawn Ridge where he lives should be able to negotiate their
25 own contracts for trash pickup as the mobile home parks do. He said that he was not going to pay
26 the fee for garbage service.

27
28 Wayne Austin, 2843 Stags Leap Drive, came forward and asked whether the agreement with Waste
29 Management was a public record. Mr. McCue responded in the affirmative. He also requested a
30 copy of the state statute which requires cities to provide for garbage pickup service. Mr. McCue
31 clarified that the statute requires that the City provide for the health, safety and welfare of its
32 residents. He said that the city's franchise agreement is based on the charter and it provides the
33 opportunity for the City to dictate certain standards that must be met in service delivery for waste
34 collection services. He explained that if the service and associated fee is not mandatory it leads to
35 illegal dumping. Mr. Austin maintained that since the residents pay Waste Management directly for
36 their service, they should be involved in price negotiations. He expressed his opinion that if the
37 residents could negotiate directly, they would have much lower prices. He stated, "If we were to be
38 able to go out and negotiate our own garbage pickup contractors, I think we'd have a lot better luck
39 with getting the prices that would be more suitable to our needs."

40
41 Don Thomas, 2044 Friar Tuck Lane, came forward and noted that two of the Council Members
42 reside in Country Village and are paying much less for their garbage service than other city
43 residents. Mr. Thomas suggested that even though the City may lose money on franchise fees if
44 residents were allowed to contract for their own garbage service, it could regain that money through
45 assessing fines for non-compliance with trash pickup regulations. Mr. Thomas said that he was the
46 Secretary of his Homeowners Association and expressed that trash disposal is the responsibility of

1 each citizen. Mr. Thomas noted the fees being paid in some of the neighboring cities and
2 questioned why this was so. He concluded by stating, "It's ridiculous to think that you can charge
3 two and a half times what our neighbors are being charged."
4

5 Council Member Mahoney spoke in support of eliminating the residential franchise fee completely
6 in recognition of the hardship associated with the magnitude of the increase in cost for residential
7 garbage pickup, stating that the \$21,000 in revenue is less important to the City than the burden
8 associated with the increase on the residents. Council Member Mahoney noted that the City has a
9 five-year contract with Waste Management and observed that the issue must be approached from
10 both a long-term and short-term perspective. He said that one of the issues that should be addressed
11 immediately is the hardship on the people. He noted that there has been support voiced for the 1/1/1
12 service level. Council Member Mahoney noted that ad valorem billing has been discussed and that
13 the advantage for it is that the people who do pay will not be paying for those who choose not to
14 pay. He suggested that an analysis of uncollectible accounts should be done at the end of the year
15 prior to negotiation of a CPI increase.
16

17 **Council Member Mahoney moved to reduce garbage service from**
18 **2/1/1 to 1/1/1, provide for ad valorem billing of garbage fees, and**
19 **reduce the residential garbage franchise fee from 10% to 0, seconded**
20 **by Council Member Sherrill.**
21

22 Mayor Erwin stated that these measures would reduce the fee to \$21.64 per month and that this puts
23 the City "in the ball park" with the most recently negotiated contract (Port Orange) in the County.
24 Council Member Allebach noted that there is a fuel surcharge on the Port Orange contract and that
25 the bill usually runs about \$30 per month total. Mayor Erwin noted that Port Orange is the only
26 other city in Volusia County that has negotiated a contract within the past year.
27

28 Council Member DeVane stated that she lives within the City limits and does not reside in one of the
29 mobile home communities. She said that she pays the same as everyone else in the City. Council
30 Member DeVane reiterated that neighboring cities will be facing the same increases when they are
31 confronted with contract renewal. She said that the City has very little control over what the garbage
32 rates are because Waste Management is a private company. She clarified that the City is proposing
33 to move to ad valorem billing for garbage services in response to feedback received at the last
34 meeting. She stressed that non-payment of a bill could result in a lien being placed on a house.
35 Council Member DeVane said that she is trying to do what the people want, but except for lowering
36 the rate, everyone is looking for something different. She concurred with Council Member
37 Mahoney's proposal to eliminate the franchise fee.
38

39 Vice Mayor Yebba commented that if the people don't want ad valorem billing, the franchise fee
40 could be eliminated instead and that would reduce the bill by about the same amount as billing
41 through the tax rolls.
42

43 Council Member DeVane observed that the people in attendance tonight apparently are not in favor
44 of ad valorem billing as were those at the last meeting.
45

46 Council Member Mahoney stated, "I'm not going to take my motion back despite the fact that the

1 majority of people now say they don't want it on ad valorem. That is inconsistent, that is
2 inconsistent with what I just heard was you want the lowest price. I pay this bill. I don't like the
3 bill. I don't want to have to subsidize those who choose not to pay. The ad valorem will address
4 that. I support ad valorem." *Amended on 2/13/07*

5
6 Council Member DeVane stated, "No matter what we do, you're not going to be happy."
7

8 Vice Mayor Yebba observed that the insinuation he is hearing is that because Mayor Erwin lives in
9 Country Village and does not pay the garbage bill, he does not care what the bill is. He stated, "Let
10 me tell you something. He's been Mayor of this City for over six years. He has fought for every
11 one of you over those whole six years. A lot of the things you see in this community that have
12 happened in the first six years that make us so proud of it...this man here led the way." Vice Mayor
13 Yebba said that he did not appreciate the insinuation.
14

15 The City Clerk repeated the motion as eliminate the franchise fee entirely, move to ad valorem
16 billing and 1/1/1 service. Mayor Erwin noted that will reduce the bill to \$21.64. Mr. McCue
17 clarified that it would reduce the bill to \$23.19 until October when ad valorem billing will begin.
18

19 **Motion passed by unanimous 7/0 voice vote of the Council.**
20

21 Mayor Erwin recessed the meeting at 8:20 p.m., reconvening at 8:30.
22

23 **3. CONSENT AGENDA:** None at this time
24

25 **4. ORDINANCES - FIRST READING:** - None at this time.
26

27 **5. PUBLIC HEARINGS/ORDINANCES – SECOND & FINAL READING:**
28

- 29 **A. ORDINANCE NO. 297:** An Ordinance of the City of Orange City, Florida,
30 annexing the Kicklighter property into the corporate limits of the City of Orange City,
31 Florida; said property being generally located on the north side of Massachusetts
32 Avenue approximately 450 feet east of Veterans Memorial Parkway, containing
33 approximately 2.5 acres; in accordance with the voluntary annexation provisions of
34 Florida Statute 171.044; redefining the boundaries of the City of Orange City by
35 amending the appropriate sections of the code of ordinances; containing a repealer
36 provision, a severability clause and providing for an effective date.
37

38 Mayor Erwin opened the public hearing by asking if anyone wished to speak in favor of or in
39 opposition to the proposed ordinance. No one appeared. The Mayor closed the public hearing.
40

41 **Council Member Sherrill moved to adopt Ordinance No. 297 on**
42 **second and final reading, seconded by Vice Mayor Yebba and passed**
43 **by unanimous 7/0 roll call vote of the Council.**
44

- 45 **B. ORDINANCE NO. 293:** An Ordinance of the City Council of the City of Orange
46 City, Florida, providing for a non-exclusive franchise to Waste Management for the

1 collection and disposal of commercial trash, garbage, recyclable materials and other
2 refuse within the city limits; providing for definitions, terms, conditions, rates,
3 compliance with laws, arbitration, standards of performance, collection, regulation,
4 operations, hours, routes, penalties, accounting, complaint resolutions; containing a
5 repealer provision; a severability clause, and providing for an effective date.
6

7 Mayor Erwin opened the public hearing by asking if anyone wished to speak in favor of or in
8 opposition to the proposed ordinance.
9

10 Al Blue, 447 N. Oak, came forward and asked whether any of the four proposed commercial
11 franchise ordinances are associated with the mobile home parks in the City. Mayor Erwin responded
12 that it allows them to work within the commercial areas of the City which includes the mobile home
13 parks and apartment complexes. Mr. Blue suggested eliminating the franchise fee for commercial
14 properties as well as for residential.
15

16 **Council Member Mahoney moved to postpone second reading of**
17 **Ordinance No's. 293, 294, 295 and 296 until the second reading of the**
18 **revised residential garbage franchise ordinance (the second meeting**
19 **of February, 2/27/07), seconded by Vice Mayor Yebba.**
20

21 Council Member Mahoney clarified that his motivation was a matter of timing and that he would
22 feel more comfortable if they followed the residential ordinance. He said that he has no desire to
23 change the ordinances.
24

25 Council Member Sherrill noted that there is a five-year notification requirement to cancel the City's
26 commercial garbage franchise agreement and asked what needs to be done to begin that process.
27 Mr. McCue said that he is working on this with the City Attorney and he will advise Council.
28

29 Council Member DeVane asked how much money is being collected from commercial franchise
30 fees and how a reduction would benefit the parks. Mr. McCue responded that he did not have that
31 information tonight. He cautioned Council Member DeVane that if the commercial franchise fee is
32 lowered, it will mainly benefit businesses.

33 Mr. Reischmann advised that Chapter 6 of the City's code provides three ways for the City to
34 manage trash disposal. They are: (1) The City directly provides garbage pickup, (2) the City issues
35 permits to private service providers, and (3) the City enters into a contract such as a franchise
36 agreement. The City charter requires that all franchise agreements must be executed by ordinance.
37 Mr. Reischmann noted that there are currently companies picking up commercial trash in the City
38 without any type of contract which is in violation of City code.
39

40 Council Member Sherrill expressed his concern that the City's financial stability could be
41 compromised if Council begins cutting franchise fees.
42

43 BEGIN TAPE 2-A
44

45 Council Member Sherrill suggested that even if the commercial franchise fees are cut, the decrease
46 will not be passed down to the residents of the parks, it will remain in the hands of the commercial

1 property owners.

2
3 **Motion passed by 6/1 roll call vote of the Council with Council**
4 **Member Allebach voting “no.”**

- 5
6 **C. ORDINANCE NO. 294:** An Ordinance of the City Council of the City of Orange
7 City, Florida, providing for a non-exclusive franchise to Container Rental Company,
8 Inc. for the collection and disposal of commercial trash, garbage, recyclable materials
9 and other refuse within the city limits; providing for definitions, terms, conditions,
10 rates, compliance with laws, arbitration, standards of performance, collection,
11 regulation, operations, hours, routes, penalties, accounting, complaint resolutions;
12 containing a repealer provision; a severability clause, and providing for an effective
13 date.

14
15 **Postponed to 2/27/07**

- 16
17 **D. ORDINANCE NO. 295:** An Ordinance of the City Council of the City of Orange City,
18 Florida, providing for a non-exclusive franchise to Waste Services for the collection and
19 disposal of commercial trash, garbage, recyclable materials and other refuse within the
20 city limits; providing for definitions, terms, conditions, rates, compliance with laws,
21 arbitration, standards of performance, collection, regulation, operations, hours, routes,
22 penalties, accounting, complaint resolutions; containing a repealer provision; a
23 severability clause, and providing for an effective date.

24
25 **Postponed to 2/27/07**

- 26
27 **E. ORDINANCE NO. 296:** An Ordinance of the City Council of the City of Orange City,
28 Florida, providing for a non-exclusive franchise to Waste Pro for the collection and
29 disposal of commercial trash, garbage, recyclable materials and other refuse within the
30 city limits; providing for definitions, terms, conditions, rates, compliance with laws,
31 arbitration, standards of performance, collection, regulation, operations, hours, routes,
32 penalties, accounting, complaint resolutions; containing a repealer provision; a
33 severability clause, and providing for an effective date.

34
35 **Postponed to 2/27/07**

36
37 **6. RESOLUTIONS:** None at this time

38
39 **7. DISCUSSION AND ACTION:**

40
41 A. Waste Management Update

42
43 This item was heard immediately following Item 2 – Citizens Comments.

44
45 B. Storm Water Plan

46

1 Mr. McCue said that staff has been developing a storm water master plan for the City. He provided
2 a brief history of storm water issues in Orange City. He stated the City has always experienced
3 intermittent flooding on some of the small streets, mostly in the older sub-divisions. Mr. McCue
4 said that he contracted with the engineering firm of Reynolds Smith & Hills to prepare a storm water
5 master plan for the City. Mr. McCue clarified that the purpose of this plan is to identify the areas
6 where action will be required to address storm water concerns in the future. It is not being done for
7 the purpose of developing a special taxing or special assessment district for storm water.

8
9 Jeffery Glenn, Engineer, Reynolds Smith & Hills (RS&H) came forward and provided a power point
10 presentation of the Mill Lake and Marshall Pond Flood Mitigation Plan (a copy of which is attached
11 and becomes a permanent part of these minutes). He stated that Marshall Pond is owned by Orange
12 City and Mill Lake is owned by the Florida Department of Transportation (FDOT)). In addition,
13 Miller Pond and the Southern Regional Water Reclamation Facility owned by Volusia County are
14 about 4 miles to the south. Neither of the lakes has a natural discharge, however, Mill Lake has a
15 pump discharge that goes to the St. John's River. There are three existing FDOT Ponds that
16 discharge to Miller Pond. These ponds, as well as Miller Lake and Marshall Pond, experienced
17 flooding during the 2004 hurricanes and an emergency order was authorized to provide temporary
18 pumping from Miller Pond to Mill Lake. Mr. McCue noted that the water coming into Mill Lake is
19 coming from DeBary. Mr. Glenn concurred although he advised that it was a relatively small
20 amount. Mr. Glenn advised that the St. John's Water Management District has permitted the
21 DeBary connection as a permanent drainage solution.

22
23 Mr. Glenn said hydrologic analysis of Mill Lake and Marshall Pond was done to determine the
24 quantity of water coming into the watershed. Next the possible causes of flooding were examined to
25 develop solutions and develop alternatives to remedy the problem and to identify possible funding
26 sources.

27
28 Mr. Glenn advised that the analysis showed that in their existing condition, both lakes could contain
29 a "25 year – 24 hour storm." He attributed the flooding following Hurricane Frances to the fact that
30 it produced about a 40% larger volume of water than the test conditions. Also contributing to the
31 problem was that one of the two discharge pumps that emptied Mill Lake into the St. Johns River
32 failed while the pumps in the other lakes connected to Mill Lake kept feeding it.

33
34 Mr. Glenn addressed the item identified as Alternative 4 in his written report as the preferred plan
35 for the City. It includes constructing a pumping station to pump water from Marshall Pond to Mill
36 Lake and constructing a second pumping station to pump water from Mill Lake into the Southern
37 Regional Reclamation Facility owned by Volusia County. He noted that this alternative would
38 eliminate the flooding of Marshall Pond and Mill Lake up to the "25 year – 96 hour storm" delivered
39 by hurricane Frances. It will also create a supply of reuse water that Orange City can sell to the
40 County thereby creating a revenue stream. This alternative will eliminate pumping to an impaired
41 water body (St. John's River) and free the FDOT of maintaining a pumping system at Mill Lake.

42
43 The cost of the project, including design, permitting, and construction is estimated at \$3.7 million
44 dollars. This option will provide approximately 300 million gallons of reuse water per day that
45 could be sold to the County. Based on a selling price of \$1 per thousand gallons of water, the sale of
46 the reuse water would generate annual revenue for the City of about \$300 thousand dollars which

1 would recover the cost of the investment in about 12 years.

2
3 Mr. Glenn next discussed funding sources for this project. He said that the St. John's Water
4 Management District has a Florida Water Protection and Sustainability Program which would
5 provide 20% reimbursement of the construction costs for the project. Secondly, the Department of
6 Environmental Protection (DEP) provides funding through their Water Facilities Funding Program
7 which would provide loans for design, permitting and construction costs. Other potential funding
8 sources are agencies such as Volusia County and the FDOT.

9
10 In response to a question from Council Member Allebach, Mr. Glenn explained that an impaired
11 water body contains a certain constituent found at higher levels than desirable for the health of that
12 water and noted that in this case, it may be phosphorus. Mr. McCue concurred noting that untreated
13 storm water is being dumped into the St. John's River. He said that he has had preliminary meetings
14 with the County regarding the viability of a reuse program such as this and that he has received "a
15 fairly positive response from the players that are involved." He reiterated that the \$3.6 million in
16 construction costs would not be borne solely by Orange City and, in fact, his hope would be that
17 only about 25% would come from the City.

18
19 In response to a question from Vice Mayor Yebba, Mr. McCue stated that the players involved in
20 this project from Volusia County would be FDOT, St. Johns River Water Management District and
21 DEP. Mr. McCue reiterated that the costs would not be borne solely by Orange City and that there
22 would be a functioning revenue stream long after capital costs are paid for.

23
24 Mayor Erwin asked how it was determined that this plan would provide 300 million gallons annually
25 of reuse water. Mr. Glenn responded that the water stream to Mill Lake and Marshall Pond are not
26 gauged so there is no accurate measurement of the water coming into the lake. He said they took a
27 shed similar in shape and size, compared the flows to the Mill Lake and Marshall Pond and based
28 their calculations on 1/4 of that water. He said he felt relatively confident that 300 million gallons per
29 year is a very conservative number and that it could actually be more than that per year. He said that
30 their calculations were based on twenty years of records. Mayor Erwin noted the many fluctuations
31 in water annually based on weather conditions, but expressed his confidence since the study
32 encompassed twenty years

33
34 Mayor Erwin asked whether the City would be transporting the water to the county waste water
35 treatment plant. Mr. McCue responded that the County is installing a reuse line project that the City
36 would interconnect with. Mayor Erwin commented that the total consumption of potable water
37 within the county is currently about 100 million gallons and asked what would be done with the
38 extra 300 million gallons. Mayor Erwin asked who would be considered customers for purchase of
39 that water. Mr. McCue stated that it would be sent to the County's waste water treatment plant and
40 they would process it along with the waste water. Beyond that, it is not clear who the customers
41 would be. He said that the system may not always be pumped at capacity if there are no customers
42 for the water.

43
44 Council Member Mahoney commented that unless there is a reliable market for the water, the city
45 would not recoup its investment. Mr. McCue responded that the county sees enough of a demand to
46 invest two million dollars laying pipes to ship water from one plant to the other and suggested that

1 would indicate a reliable market. He said the County's reuse sales data is unclear at this time. Mr.
2 McCue said that if Council directs that this proposal warrants further exploration, staff will provide
3 the data necessary to determine whether an investment is warranted. Mr. Glenn noted that there is a
4 large demand for irrigation water in the County. Mr. McCue stated that he would not be
5 recommending pursuing this matter any further only to address storm water overflows in Mill Lake
6 and Marshall Pond.

7
8 Mr. James Avitable, Engineer, RS&H came forward and stated that he did not have the data
9 available but confirmed that the county is building a reuse plant and that would indicate a growing
10 need. He said Orange City is in a location to supply that need within the county. Mr. McCue stated
11 the concept of not using ground water for irrigation is past due in Volusia and that this project would
12 be one of the first to have two to three state agencies, a county, and a local municipality putting
13 together a program that would address a lot of water issues, not just storm water. In response to a
14 question from Mayor Erwin, Mr. McCue responded that if Council authorizes staff to proceed with
15 the project, negotiations will begin, and that the data and details will be available once all the
16 stakeholders give input. He advised that there are other alternatives for consideration if Council
17 does not agree with his recommendation to pursue Alternative 4. Mayor Erwin asked whether
18 further study would be done prior to taking any action if Council was in favor of this alternative.
19 Mr. McCue responded in the affirmative.

20
21 Council Member Mahoney inquired if data was available to show how much water is being
22 consumed for irrigation. Mr. McCue responded that it would not be comprehensive because the
23 County does not meter irrigation water. He summarized that this is a picture of what could be a very
24 creative project that links storm water reuse, environmental issues, and the water supply.

25
26 Vice Mayor Yebba expressed his opinion that this is more of a money making adventure than
27 anything else and that Council will be looking at this very closely. He stated "If we are going down
28 a money making adventure, we're going to make sure we make some money at it."

29
30 Council Member DeVane stated that she is more concerned with the environment and that her hope
31 is this project will save potable water by not using it for irrigation. She said if the amount of
32 pollutants going into the St. John's River can be reduced, that is a bigger benefit than the money.
33 Vice Mayor Yebba responded, "There is nothing wrong with making a little money as you clean up
34 the environment at the same time."

35
36 Mr. McCue noted that normally he would not recommend a project with 12-year return on
37 investment, but that he felt that RS&H provided a conservative estimate based on the City expending
38 and paying the capital for the entire project. He noted this proposal is a worst-case scenario and that
39 he would not bring this project before Council unless the other players come to the table.

40
41 Council Member Sherrill recalled when that when WAV first formed, the farmers and nursery
42 owners wanted to know where they were going to get water. Currently, there is a big market for
43 nurseries, and new manufacturers coming to the county who use massive amounts of water and said
44 that he felt the idea is worth pursuing.

45
46 Mayor Erwin noted that a rule of thumb for a return on investment is generally three years. Mr.

1 McCue responded that would depend on what the other parties commit to the project and assured the
2 Mayor that it will not come before council again if those contributions are not forthcoming.

3
4 Mr. McCue said that staff is recommending that City Council approve the Storm Water Master Plan
5 Alternative Number 4. If approved, staff will move the project forward with the consulting
6 engineers, get all the stakeholders together, and report back to Council.

7
8 Council Member Storke inquired if this is the only project in the Storm Water Master Plan. Mr.
9 McCue responded that this is only one project that staff would bring before council that is associated
10 with any major cost. He said there would be a project involving the West Rhode Island extension
11 and Aspen Avenue off 17-92. Mr. McCue said that part of the acquisition of property in that area
12 would be to construct a storm water pond to protect the properties on the south side of Aspen
13 Avenue. That project will be coming forth during the budget process. Mayor Erwin noted that this
14 project is for West Rhode Island.

15
16 **Vice Mayor Yebba moved to approve the Storm Water Master**
17 **Plan, Alternative Number 4, seconded by Council Member**
18 **Allebach and passed by unanimous 7/0 voice vote of the**
19 **Council.**

20
21 C. Right of Way Maintenance Agreement

22
23 Chester Murray, Development Services Director, came forward and stated that this agreement was
24 mandated by the Planning Commission in conjunction with the granting of a conditional use
25 application. The Planning Commission mandated that a maintenance agreement be signed by the
26 two adjoining property owners on A Street. Mr. Murray explained that the City is a party to the
27 agreement because A Street is a City street. The other parties to the agreement are Coody Pools and
28 Alternate Design Plumbing.

29
30 **Council Member Allebach moved to authorize the City**
31 **Manager to sign the Right of Way Maintenance Agreement for**
32 **A Street, seconded by Vice Mayor Yebba.**

33
34 Council Member Allebach noted that the parties to the agreement will enhance the affected right of
35 way in the same manner as in the City's agreement with the Florida Department of Transportation.

36
37 Council Member Mahoney asked that Mr. McCue correct the spelling errors in the agreement.

38
39 **Motion passed by unanimous 7/0 voice vote of the Council.**

40
41 D. Veterans Memorial Relocation

42
43 Mr. McCue noted this agenda item is a result of direction from City Council at the last meeting to
44 develop a plan to relocate the Veterans Memorial from Town Hall to Rotary Park.

45
46 James Moltz, Parks and Recreation Superintendent, came forward and pointed out the details of the

1 layout of the new location for the monuments as indicated in the drawing provided to Council. He
2 explained that each of the markers would have a flag for its branch of service. The existing flag pole
3 will be relocated to the center of the ring of markers. All of the flags will be lit at night.

4
5 Council Member Yebba said that he is in charge of the July 4th celebration and that he is looking
6 forward to staff getting this project done before the July 4th event. He expressed that that would be a
7 good opportunity to invite veteran groups and re-dedicate the park as Veterans Memorial Park. Mr.
8 McCue said that staff should be able to complete the project by then. Mr. McCue advised that since
9 the last meeting, he has received favorable feedback on the proposed move. He commended staff on
10 putting together a great plan in a short amount of time.

11
12 Ron Saylor, 361 Dixson Street, came forward and stated that the City's parks are very important to
13 him. He expressed his disagreement with the relocation of the memorial because of the high level of
14 use in Rotary Park by families and children. Mr. Saylor stated that the memorial is "a place of
15 reverence where you stop and reflect on those that gave time for their country." He stated that
16 relocating the memorial to a park where children are playing would not be appropriate. He
17 suggested moving the memorial to Dickinson Park as an alternative. Mr. Saylor stated, "A veterans
18 memorial belongs in a place of respect as a memorial."

19
20 Vice Mayor Yebba responded that the park would stay a park. He suggested that the memorial
21 could serve as a learning experience for children using the park. He expressed his support for
22 moving the memorial to Rotary Park and changing the name to Veteran's Memorial Park.

23
24 Mayor Erwin noted that the proposed location for the memorial is in the northwest corner of the park
25 and is isolated from most of the other activities except for the walking trail. Mr. McCue said if
26 directed by Council, the memorial will be moved to Rotary Park and that staff will bring back a
27 resolution renaming the park. He suggested that a proclamation could be read at the Fourth of July
28 celebration.

29
30 Mayor Erwin agreed with Vice Mayor Yebba and said that a location in an active park will draw
31 attention to the memorial and educate younger citizens.

32
33 TAPE 2-B

34
35 Council Member DeVane said that she is in favor of the new location because of its visibility and
36 expressed her hope that the parents of the children in the park will show it respect and teach the
37 children the respect that they need to show for those who have fought for this country. She stated, "I
38 am hoping for the best that it won't be vandalized or destroyed by the children in there and actually
39 feel that would be a nice change adding that to bring awareness."

40
41 Council Member Storke noted that all the playground sets and other park activities are in the south
42 end of the park.

43
44 **Vice Mayor Yebba moved to proceed with the relocation of the**
45 **Veteran's Memorial to Rotary Park and at the same time that**
46 **staff prepare a resolution to change the name of the park to**

1 **Veteran's Memorial Park, seconded by Council Member**
2 **Allebach.**

3
4 In response to a comment from the Mayor, Mr. McCue stated that the relocation would be complete
5 before the 125th celebration.

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

8
9 **8. REPORTS:**

10
11 A. City Manager

12
13 Mr. McCue reported that he had received a response from the County Manager regarding the Closest
14 Unit Response (CUR) agreement submitted in December. He noted the issues of the map and billing
15 language are easily resolved, however, resolving the COPCN issue will depend on the County.
16 There is a clause in the interlocal agreement that states if the county has budget constraints and if
17 there is no funding, the interlocal agreement is no longer in effect. Staff added language that
18 provided that if the interlocal agreement is not in effect, the County cannot cancel Orange City's
19 COPCN. Mr. McCue said he spoke with Ms. Mary Anne Connors from Volusia County and that she
20 understood the City's position. He advised that staff will reword the language of that clause and
21 resubmit the agreement to the County. Mr. McCue said that if the County does not find that
22 acceptable, he will recommend that the City not enter into the agreement and instead, take the matter
23 to court. Mr. McCue said that the State Statute governing the issuance of a COPCN had not been
24 reviewed since 1973 and that staff will be embarking on an initiative to bring this matter before the
25 legislature.

26
27 Mr. McCue said that the largest remaining obstacles in the agreement are related to territory issues.
28 Both Chief Hoffman and Mr. McCue said that the remaining issues appear easily resolved, however,
29 until negotiations begin, the outcome is not certain as new issues may arise.

30
31 Mr. McCue advised that there have been problems with Layne Construction, the contractor working
32 on the City's new wells. He said that the City is terminating its agreement with Layne Construction.
33 He said he has notified them and that they will be reimbursed for \$80,000 in expenses that they have
34 incurred, but that the City plans to hire a new contractor. Mr. McCue advised that the City has
35 obtained bids from two other contractors who are aware of the situation. Mr. McCue said that he
36 would bring the two bids to Council for award of a contract to complete the wells.

37
38 Mayor Erwin noted there appears to be new equipment at the well drilling site. Mr. Johnson
39 responded that the equipment is from Layne Construction and that Layne is anticipating removing
40 the rest of their equipment. Mr. McCue said that the City Attorney will be working with Layne's
41 attorney to resolve the contract issues. Mr. Johnson stated that he did not see any new equipment at
42 the site when he was out there.

43
44 In response to a question from Council Member Sherrill, Mr. McCue explained that at this point, the
45 City can try to terminate the contract so that Attorney fees do not become an issue and the
46 alternative is to take the matter to court. He said that if the City involves the bonding company to

1 remove Layne from the job, the bonding company will choose the replacement vendor and the City
2 will incur a significant amount of legal expense, as well as a delay in completing the job.

3
4 B. Mayor/City Council

5
6 Mayor Erwin reported that St. Johns Clean-Up day is scheduled for June 2nd. He noted that the City
7 has participated for a number of years and asked whether Council wants to participate again this year
8 by contributing \$300. Mr. McCue responded that funding is included in the budget.

9
10 **Council Member Sherrill moved to approve participation in**
11 **the 11th Annual St. Johns River Clean Up in the amount of**
12 **\$300 and participation in the activities, seconded by Council**
13 **Member Allebach and passed by unanimous 7/0 voice vote of**
14 **the Council.**
15

16 Mayor Erwin recalled that at the last meeting, there was discussion regarding the drug and
17 prostitution problems in the City. He said that he had requested that the City host a public workshop
18 on the matter some time next month. The Mayor reported that there have been some new
19 developments since that time and suggested that the workshop be postponed until March 6th or
20 March 20th. In response to a question from Council Member DeVane, Mayor Erwin said that there
21 would likely be better attendance if the meeting is scheduled during the week instead of on a
22 Saturday. Vice Mayor Yebba noted that the March 20th date falls in the middle of the City's 125th
23 Anniversary celebration. Mayor Erwin suggested the first Tuesday in April as an alternative date.
24 Mr. McCue said that depending on developments regarding this matter, it may be possible to have it
25 sooner. Mayor Erwin said that the date could be set at the next Council meeting.

26
27 Mayor Erwin stated that he attended the first "Smart Growth" meeting today. He advised that the
28 County Manager and one County Council Member were there. The Mayor said that there was
29 agreement that the first area of priority should be the environmental core as defined in Map A of the
30 Smart Growth Committee. Mayor Erwin said that the Committee has requested a larger map that
31 also defines borders. Also discussed were urban service areas and the development of a
32 "Community Vision" as required by Concurrency 360 for education. Mayor Erwin said that the City
33 was commended by the School Board for its strategic plan. Also to be discussed are annexation and
34 land use issues. Mayor Erwin stated that the Committee hopes to have a plan to present to the
35 County Council by May.

36
37 The Mayor reported on the VCOG meeting last night stating that they were told that during the
38 Christmas Day tornadoes the east and west side dispatch centers did not appear to be communicating
39 with each other. Chief Hoffman said that this has been an ongoing issue since 1998 and that it is
40 being addressed. They are in the process of reprogramming the radio channels so that there will be
41 one channel where all EMS personnel can tune in the event of a widespread emergency.

42
43 Mayor Erwin reported that on an organization called the "Builder's Care" program in which local
44 contractors assist homeowners with repairs. He said that the program provided assistance to a home
45 in Orange City. The Mayor said that the organization has requested to make a presentation and that
46 they will be asking that all cities make a three-year commitment of \$3,000 for start-up funding.

1 The school concurrency program is moving along and there is a summit planned for January 29th in
2 DeLand. The meeting will involve elected officials and local planning and zoning personnel. The
3 Mayor said that the response so far has been poor. Mr. McCue said that the City would be
4 participating. Mayor Erwin said that he would be attending as well.

5
6 Mayor Erwin noted that he had provided Council with a copy of the new WAV Interlocal
7 Agreement dated November 6th. He said that the new agreement was approved by WAV last week
8 with some changes. The next meeting to discuss reorganizing WAV will be held in March. The
9 Mayor said that some of the changes include adding membership opportunities for local
10 governments outside of Volusia County. Another change is that membership will be expanded to
11 include technical personnel and Managers of utilities organizations. The "opt-out" clause provides
12 for a member government to drop out of the organization sixty-days after adoption of the new
13 Interlocal Agreement or they will have to wait for six months.

14
15 In response to an inquiry from Council Member Mahoney, Mayor Erwin said that the Partnership
16 Center is in the process of disbanding. Mr. McCue said that the project is dead and the City should
17 be receiving a check next week for undisbursed monies. Mayor Erwin attributed the main reason for
18 failure of the project to the escalating costs and the funding mechanism which required additional
19 "up-front" money to be in place as match. Vice Mayor Yebba said that he was proud of Orange
20 City's part in this project and said that he was upset at the way it turned out.

21
22 BEGIN TAPE 3-A

23
24 Mayor Erwin noted that the latest cuts to the building which eliminated the kitchen facilities
25 rendered the building unsuitable.

26
27 Vice Mayor Yebba suggested that staff look at some projects within the City that the partnership
28 center funding could be used for. Council Member Sherrill suggested that the City revisit
29 contributing money to the DeBary Art League project. Vice Mayor Yebba said that perhaps the
30 money could be used to build a facility in the City. Mayor Erwin suggested holding a public
31 workshop in the future to receive input from the citizens of the City. He said that he envisioned a
32 facility that would hold 400-600 people in an auditorium setting or 300-400 in a banquet setting.
33 The Mayor noted that there is a definite need for a place for cultural activities in the area.

34
35 Vice Mayor Yebba reported that he attended an MPO meeting this morning at which he received
36 information about the 2006/07 school safety review study which is scheduled to be completed in
37 March. Council Member Storke said that the study considered the sidewalks around the schools to
38 identify areas in need of work.

39
40 The Vice Mayor said that he attended a meeting at Blue Spring State Park along with City staff and
41 Park personnel to discuss boat ramps. The State is looking to repair the boat ramp, provide
42 additional parking and to build docks and they are willing to sign a lease with the City. The City in
43 turn would maintain the road and pursue grant funding for the improvements. The State would help
44 the City in this endeavor. Mr. McCue said that there is a potential that the City could participate in
45 this project in the future.

46

1 C. City Clerk
2

3 The City Clerk noted that at the last meeting, the City Attorney requested that an executive session
4 be scheduled. She suggested the meeting be held on February 13th at 6:00 p.m. prior to the next
5 regular Council meeting. Ms. Renner passed around a sign-up sheet for participation at the booth at
6 the Manatee Festival next weekend.
7

8 D. City Attorney
9

10 The City Attorney had no report.
11

12 **9. APPROVAL OF MINUTES**
13

14 **Council Member DeVane moved to approve the minutes of the**
15 **January 9, 2007 Council Meeting minutes, seconded by**
16 **Council Member Allebach and passed by unanimous 7/0 voice**
17 **vote of the Council.**
18

19 **10. COUNCIL COMMENTS**
20

21 Council Member Mahoney expressed his disappointment with the outcome regarding the partnership
22 center, but expressed his optimism that another project of this type could be pursued.
23

24 Council Member Allebach invited everyone to come to the Manatee Festival. He also expressed his
25 disappointment in the demise of the partnership center.
26

27 Vice Mayor Yebba related a parable about a chicken with no head which had to be fed through an
28 eye dropper. It's owner took the chicken on tour, but one day, he lost the eye dropper and couldn't
29 feed the chicken so it died. The Vice Mayor stated, "You all figure out who the chicken was and
30 who had the eye dropper at the time."
31

32 Mayor Erwin noted that a great deal of effort had been devoted to the partnership center, however,
33 due to the present circumstances, he felt disbanding is the only solution at this time. Mayor Erwin
34 said that he felt staff did the best job they could regarding the residential garbage franchise
35 agreement.
36

37 **11. ADJOURNMENT**
38

39 There being no further business, Mayor Erwin adjourned the meeting at 10:32 p.m.
40

41 **RESPECTFULLY SUBMITTED:**
42

43
44 Deborah J. Renner, CMC
45 City Clerk

APPROVED ON

As amended
2/13/07