

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,  
2 Florida, held on Tuesday, March 13, 2007 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue,  
3 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 DeVane, Robert A. Storke; Acting City Manager  
13 Chester Murray; City Attorney William Reischmann; City Clerk Deborah Renner

14  
15 **ABSENT:** Council Member Jim Mahoney, City Manager John McCue

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

18  
19 **1. PRESENTATIONS: Proclamation – Orange City’s 125<sup>th</sup> Anniversary**

20  
21 Mayor Erwin read a proclamation into the record acknowledging Orange City’s 125<sup>th</sup> Anniversary  
22 and encouraging all citizens to join in the celebratory festivities to be held throughout the City  
23 during the week of March 16 through March 24, 2007.

24  
25  
26 **Presentation of Annual Audit**

27  
28 Rob Kimelman, Greene Dycus & Co., P.A., came forward and provided a power point presentation  
29 highlighting the City’s Comprehensive Annual Financial Report (CAFR) for the fiscal year ending  
30 September 30, 2006 (a copy of which is attached and becomes a permanent part of these minutes).  
31 Mr. Kimelman commended Finance Department staff for their work on the CAFR. He directed  
32 Council’s attention to the statistical reporting sections of the CAFR and advised that GASB 44  
33 required an expansion of the information contained there.

34  
35 Mayor Erwin noted that everything appears to be on-track with the City’s financial standing.

36  
37 **Council Member Allebach moved to accept the audit for the**  
38 **fiscal year ending September 30, 2006 as presented, seconded**  
39 **by Vice Mayor Yebba and passed by unanimous 6/0 voice vote**  
40 **of the Council.**

41  
42 **State of the City & Strategic Plan**  
43 **1<sup>st</sup> Qtr. Performance Reports**

44  
45 Mayor Erwin noted that Mr. McCue has been ill and was not available tonight to give the State of  
46 The City report. He advised that a printed copy of the report would be available after 2:00 p.m.

1 tomorrow and that it could be obtained by the public from the City Clerk or City Manager's office.  
2 Angel Smith, Community Relations Coordinator, came forward to provide a report on progress in  
3 achieving the goals identified in the strategic plan. She distributed a written report to the Council (a  
4 copy of which is attached and becomes a permanent part of these minutes). Ms. Smith noted that the  
5 five goals identified by the Council were listed in the report along with thirty-three action items.  
6 She advised that over 75% of the action items in the report have been completed. She asked that  
7 Council review the report and provide their input as to improvements that could be made to it. Ms.  
8 Smith advised that the strategic plan tracking report would be used to evaluate the performance and  
9 accountability of the City's department heads. She explained the layout of the report and how it  
10 relates to the goals in the strategic plan, along with the progress on the action items associated with  
11 each goal.

12  
13 Council Member Yebba asked how often progress on the goals would be reviewed. Chester Murray,  
14 Acting City Manager, responded that Mr. McCue planned to review the goals quarterly. He  
15 explained that at this point, staff was requesting Council's input as to the format of the progress  
16 report and whether they found it useful. Mr. Murray further explained that in the future, each  
17 agenda item brought before Council would be tied to one of the goals identified in the strategic plan.

18  
19 Mayor Erwin suggested that a workshop be scheduled to discuss the progress report sometime in  
20 April.

21  
22 **It was the consensus of Council that a workshop be scheduled**  
23 **for 6:30 p.m. April 17<sup>th</sup> to discuss the strategic plan progress**  
24 **report.**

25  
26 Mr. Murray commended Ms. Smith for her work on the report.

27  
28 **2. CITIZENS COMMENTS:**

29  
30 Ron Saylor, 361 Dixson Street, came forward and recalled that he had appeared previously before  
31 Council and had characterized the strategic plan as "junk mail." He referenced the newsletter which  
32 was mailed recently and said that he was "very, very impressed." Mr. Saylor stated, "I don't know  
33 how, where or when this thing was generated, but this is one of the best tax dollar investments I  
34 think you've done." He expressed his wish that the newsletter be published twice a year.

35  
36 **3. CONSENT AGENDA:** None at this time

37  
38 **4. ORDINANCES - FIRST READING:**

- 39  
40 **A. ORDINANCE NO. 301:** An ordinance of the City of Orange City, Florida,  
41 annexing certain portions of the right-of-way of Volusia Avenue (US 17-92) into the  
42 corporate limits of the City of Orange City, Florida; in accordance with the  
43 annexation provisions of Florida Statute 171.044; redefining the boundaries of the  
44 City of Orange City by amending the appropriate sections of the code of ordinances;  
45 containing a repealer provision, a severability clause and providing for an effective  
46 date.

1  
2 **Council Member DeVane moved to adopt Ordinance No. 301 on first**  
3 **reading, seconded by Vice Mayor Yebba.**  
4

5 Jim Kerr, Assistant City Planner, came forward and said that the proposed ordinance is to annex the  
6 right of way of certain portions of Volusia Avenue (17-92). He said that the purpose of the  
7 annexation is to eliminate jurisdictional confusion that has arisen over the years. Mr. Kerr clarified  
8 that the ordinance would not require the City to assume any maintenance responsibilities on the right  
9 of way, but simply to provide the best emergency service that can be provided to protect the life,  
10 safety and welfare of the community. The annexation encompasses the area on 17-92 from Saxon  
11 Boulevard to the 472 Interchange. Mr. Kerr noted that the City currently maintains most of the right  
12 of way via an Interlocal Agreement with the Florida Department of Transportation (FDOT).  
13

14 Vice Mayor Yebba stated, "This is an annexation that is not an annexation." He expressed his  
15 confusion with the proposed ordinance and suggested that the purpose could be better served  
16 through an interlocal agreement with the FDOT.  
17

18 Council Member Sherrill remarked that the agreement was necessary because city boundaries are in  
19 and out along this area and the annexation would resolve confusion over emergency response in the  
20 area.  
21

22 Mr. Reischmann advised that State Road 17-92 is not a part of the City and would never be. He  
23 clarified that maintenance of the road and ownership of the land under the road would remain with  
24 the State. Vice Mayor Yebba asked whether this annexation would have the same effect as if a  
25 house were being annexed. Mr. Reischmann responded, "In the sense that we are expanding the  
26 legal boundaries of the City limits, it is no different." Vice Mayor Yebba stated, "Then we've  
27 actually annexed the road into the City." Mr. Reischmann said that rights of way have been annexed  
28 into the City in the past along with other properties, noting that in this case only the right of way is  
29 being annexed. He read from a letter from the FDOT which accompanied the agenda item as  
30 follows: "Annexation merely makes the real property part of the City for police power purposes...,  
31 but does not change the ownership of the property nor does it make the road a city street instead of a  
32 state road." In response to a question from the Vice Mayor, Mr. Reischmann advised that a right of  
33 way can not be used to establish contiguity.  
34

35 Council Member Sherrill asked why the intended purpose could not be accomplished through an  
36 interlocal agreement rather than by annexation. Mr. Reischmann responded that would be another  
37 method. He said that many cities have been annexing state roads to eliminate real or perceived  
38 ambiguities in the provision of public services. Mr. Murray said that if there were an accident in this  
39 area requiring an arrest, the City would be outside of its jurisdiction. He stressed that the proposed  
40 annexation would ensure that the City's action would be enforceable.  
41

42 Council Member DeVane expressed that she hoped the annexation would provide the contiguity  
43 necessary to annex other property in the area.  
44

45 In response to a question from Mayor Erwin, Mr. Reischmann said that there must be contiguity  
46 between private property and/or city-owned property of a substantial nature for the property to be

1 annexed into the City either voluntarily or involuntarily. He noted a recent incident where Deltona  
2 attempted an annexation which was struck down by the appeals court because the contiguity was not  
3 substantial enough to meet the legal requirements.

4  
5 Mayor Erwin asked that Chief Baskoff and Chief Hoffman discuss the advantages of the proposed  
6 annexation.

7  
8 Chief Baskoff came forward and noted that parts of 17-92 are not in the City. He said that the  
9 legality of an interlocal agreement in these situations has been successfully challenged by other  
10 cities. Chief Baskoff advised that the City has lost DUI cases because of jurisdictional challenges in  
11 the past. The Chief advised that the Florida Highway Patrol (FHP) does not enter into interlocal  
12 agreements. He cited an incident where the City commenced an investigation into a traffic homicide  
13 only to find that the area in question was outside the City limits and the case had to be turned over to  
14 FHP after the City has invested hours into the investigation. In response to a question from the  
15 Mayor, Chief Baskoff explained that the term "hot pursuit" was applied to situations where an  
16 incident happened in the City's jurisdiction but the suspect left the area and that the City does have  
17 the right to pursue in those cases.

18  
19 Chief Hoffman advised that the annexation would simplify dispatching issues. Chief Baskoff noted  
20 that this annexation represents progress toward the identified goal of squaring-off of the City's  
21 boundaries. He stressed that the annexation would benefit the police department greatly.

22  
23 Council Member Storke read from the fifth "whereas" clause in the ordinance as follows: "...the  
24 intent of this ordinance is not to annex..." He stated, "I thought that's what this ordinance was..."  
25 Mr. Murray clarified that it meant that the City was not annexing the maintenance. Council Member  
26 Storke reiterated that there appears to be a contradiction in the language of the ordinance. Mr.  
27 Reischmann clarified that Council Member Storke's observation is correct.

28  
29 BEGIN TAPE 1-B

30  
31 **Council Member Storke moved to strike the words "annex or" in the**  
32 **first sentence of the fifth "whereas" clause of the ordinance, seconded**  
33 **by Vice Mayor Yebba and passed by unanimous 6/0 roll call vote of**  
34 **the Council.**

35  
36 **Main motion passed by unanimous 6/0 roll call vote of the Council**  
37 **adopting Ordinance No. 301 on first reading as amended.**

38  
39 **5. PUBLIC HEARINGS/ORDINANCES – SECOND & FINAL READING:**

- 40  
41 A. **ORDINANCE NO. 302:** an ordinance of the City of Orange City, Volusia County,  
42 Florida, approving and authorizing the lease between the City of Orange City and  
43 DeShields Transport, Inc. and Eugene J. Kocol of a portion of the Orange City Public  
44 Works yard; providing for purpose, description, term, and consideration; providing  
45 for conflicting provisions; providing for severability; providing an effective date.

46  
47

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

3  
4 **Council Member Allebach moved to adopt Ordinance No. 302 on**  
5 **second and final reading, seconded by Council Member Sherrill.**  
6

7 Paul Johnson, Public Works Director, came forward and advised that the change directed by Council  
8 at the last meeting to put a limitation on the quantity of material that can be stored at the site had  
9 been added to the lease agreement.

10  
11 **Motion passed by unanimous 6/0 roll call vote of the Council.**  
12

13 **6. RESOLUTIONS:**  
14

- 15 **A. RESOLUTION NO. 396-07:** A resolution of the City Council of the City of Orange  
16 City, Florida, authorizing the City Manager to execute a contract with Government  
17 Services Group (GSG) for the purpose of the development and implementation of a  
18 non-ad valorem assessment program for residential solid waste services for the City  
19 of Orange City; repealing all resolutions in conflict herewith and providing for an  
20 effective date.  
21

22 **Council Member Sherrill moved to adopt Resolution No. 396-07,**  
23 **seconded by Council Member Storke.**  
24

25 Christine Davis, Finance Director, came forward and stated that this resolution will authorize the  
26 City Manager to enter into a contract with Government Services Group (GSG) to enable the City to  
27 meet the statutory requirements related to imposing a special assessment for residential garbage  
28 service. Ms. Davis advised that the City has been working with GSG to implement a special  
29 assessment district for street lighting and stormwater. She noted that this will be the first non-ad  
30 valorem special assessment that the City has enacted. Ms. Davis said that the original charge  
31 proposed by GSG for this service was \$42,000, however, that has been reduced to \$36,000. She  
32 said that ordinarily, these fees would be rolled into the special assessment and the City would be  
33 repaid for this service, however, in this instance, staff is recommending that the fees to GSG be  
34 allocated in the budget amendment to be borne by the City.  
35

36 In response to a question from Council Member Storke, Ms. Davis advised that this contract is  
37 separate from the City's other contract with GSG, however, the fee for this contract was adjusted  
38 downward based on the City's current relationship with them. Mr. Murray noted that there was  
39 some duplicative work which also contributed to the fee reduction. Ms. Davis said that a decision  
40 was made not to go out for bids on this service based on the City's existing relationship with GSG.  
41

42 Mayor Erwin noted that GSG is highly recognized for their work in this area and that they are one of  
43 the few providers of this service in the state. The Mayor advised that a number of the City's existing  
44 ordinances will require modification in order to be compliant with the recently adopted changes in  
45 the residential solid waste contract.  
46

1                   **Motion passed by unanimous 6/0 roll call vote of the Council.**  
2

3           **B.     RESOLUTION NO. 397-07:** A resolution of the City Council of the City of Orange  
4           City, Florida, amending the annual operating budget for fiscal year 2006-2007 by  
5           adjusting revenue and expenses; repealing all resolutions or parts of resolutions in  
6           conflict herewith; and providing for an effective date.  
7

8                   **Council Member Sherrill moved to adopt Resolution No. 397-07,**  
9                   **seconded by Council Member DeVane.**  
10

11           Christine Davis, Finance Director, came forward and stated that this resolution will amend the  
12           budget adopted in September 2006. She advised that the amendment will increase the adopted  
13           budget by \$1,626,050, or 17%. Ms. Davis stated that the largest item in the amendment is the return  
14           of funds due to the dissolution of the Partnership Center. Staff is recommending that the funds be  
15           used to pay off the line of credit. Ms. Davis said that there had been discussion about using that  
16           money for another purpose, however, she advised that would require adoption of another ordinance  
17           authorizing the new purpose for the funds. The City received a refund from Daytona Beach  
18           Community College in the amount of \$1,192,000 which includes pro-rated interest in the amount of  
19           \$8,000. The amendment includes \$25,000 for the 125<sup>th</sup> anniversary celebration for a total allocation  
20           of \$100,000 for this item. Ms. Davis advised that \$50,000 in donations has been received to offset  
21           this expense. Also included is funding for two new firefighter positions and funding to pay off  
22           existing USDA loans. The final major item is funding for the completion of wells 8 and 9.  
23

24           Mayor Erwin noted that it appears that the additional monies for the 125<sup>th</sup> anniversary will not be  
25           needed in light of the successful fundraising campaign and, in fact, there should be a surplus in the  
26           current allocation. Ms. Smith advised that sponsorships are now over \$55,000 including \$5,000 in  
27           in-kind donations.  
28

29                   **Motion passed by unanimous 6/0 roll call vote of the Council.**  
30

31           **7.     DISCUSSION AND ACTION:**  
32

33                   **A. Bid Award – Painting Services**  
34

35           Paul Johnson, Public Works Director, came forward and advised that a bid was advertised for  
36           painting services for the interior of Town Hall, and the exterior of several buildings and the water  
37           storage tanks at the Utilities main plant. Two bids were received, one from Lamphier and Co. for  
38           \$48,849 and the other from Stoefflers Painting for \$131,156. Mr. Johnson discussed the scope of  
39           work involved in the Town Hall project noting that it involves extensive restoration, not just  
40           painting. He said that Lamphier, based in Sanford, specializes in historic restoration. Council  
41           Member Sherrill noted the large difference between the two bids and asked whether they were based  
42           on identical specifications regarding paint type, etc. Mr. Johnson responded that there is a certain  
43           standard which must be met on the water tanks and that the paint for Town Hall was of a high  
44           quality. He said that the bid included a mandatory pre-bid conference during which both companies  
45           were provided with a tour of the sites for all work along with the standards which must be met for  
46           the utility buildings. Mr. Johnson advised that he had previously obtained quotes for the storage

1 tanks and that they had ranged from \$19,000 to \$160,000. He said that he could not account for the  
2 large difference in the two bids, but that he had confidence in Lamphier and Co.

3  
4 Mayor Erwin asked how the possible mold problem in Town Hall would be addressed. Mr. Johnson  
5 responded that the any surface mold on the interior walls would be killed and the walls would then  
6 be sealed prior to painting. The interior walls would be inspected, but there are no plans to  
7 disassemble the walls at this point. Mayor Erwin expressed his concern that there is mold inside the  
8 walls at Town Hall and asked how it would be determined whether this is the case. He stated, "I  
9 don't know if we're going far enough with just putting paint on there. You've got to convince me  
10 that we are because I don't feel we are." Mr. Johnson responded that the building official has  
11 advised that the mold problem has been solved with the sealing of the exterior walls and that a  
12 surface killing of the mold at this time will resolve the issues. Mr. Johnson advised that the exterior  
13 sealing has resulted in a major reduction in the amount of moisture in the building. In response to a  
14 question from the Mayor, Mr. Johnson stated that air quality tests inside Town Hall were not  
15 performed prior to the sealing of the building. Mr. Murray said that tests were previously done in  
16 1996. Mayor Erwin expressed that he would like to see air quality tests performed again for the  
17 purpose of comparison. Council Member Sherrill concurred. Mayor Erwin noted that it appears that  
18 Council would like to have some "spot checking" of the inside of the walls done before the painting  
19 commences. Mr. Murray said assured Council that the contract will not be signed until further  
20 investigation regarding the potential for mold is done. Mr. Johnson suggested that work could  
21 commence on the water towers while the mold inspection is taking place.

22  
23 **Council Member Allebach moved to authorize the City Manager to**  
24 **enter into an agreement with Lamphier and Company for painting**  
25 **services, seconded by Vice Mayor Yebba and passed by unanimous**  
26 **6/0 voice vote of the Council.**

27  
28 **8. REPORTS:**

29  
30 A. City Manager

31  
32 Vice Mayor Yebba asked for an update on the recent problems with prostitution. Chief Baskoff  
33 responded that a number of them have been arrested and that there have not been any complaints for  
34 the past three or four weeks. Mayor Erwin said that a decision was made to postpone the workshop  
35 to address these problems until after the 125<sup>th</sup> anniversary celebration. He suggested that a date for  
36 the workshop be set at the next meeting. The Mayor said that he has been satisfied with law  
37 enforcement's efforts thus far, but still felt the workshop is needed to prevent a "relapse."

38  
39 B. Mayor/City Council

40  
41 Mayor Erwin reported that the Smart Growth Committee met yesterday. He said there seems to be  
42 agreement on the area included in Map A. The agenda for the next meeting will include discussion  
43 of the Growth Management Committee.

44  
45 The Mayor stated that plans are set for the 125<sup>th</sup> Anniversary activities. He said that the committee  
46 is exploring the possibility of moving Friday's event into the Library in the event of inclement

1 weather. Over 400 tickets to the dinner have been sold and tickets are still available and will be sold  
2 through Thursday. Mayor Erwin encouraged Council to be present at the Kick-off ceremony on  
3 Friday and said that any Council Member wishing to speak would be provided with an opportunity  
4 to do so. Congressman Mica will be present to provide the keynote address. Bill Dreggors will be  
5 present as Seth French, along with a representative from the Dickinson family. The Orange City  
6 Elementary school chorus will perform. A rededication of Town Hall will be held on Sunday prior  
7 to the Historic Tour and Mayor Erwin asked that Council try to attend. Mayor Mark Shuttleworth  
8 will be present to speak at the ceremony. Mayor Erwin said that the artist who wrote the city song  
9 will provide a live performance at the event on March 24<sup>th</sup>.

10  
11 Council Member DeVane said that she would be out of the state and will be unable to attend the  
12 events during the week.

13  
14 C. City Clerk

15  
16 The City Clerk had no further report.

17  
18 D. City Attorney

19  
20 Mr. Reischmann advised that he and Ms. Davis met with representatives of the Partnership Center to  
21 discuss the issues regarding the termination of the two existing Interlocal Agreements. A main topic  
22 of discussion was the audit of monies spent and it appears that all parties involved agreed that the  
23 expenditures were reasonable and were spent appropriately. It was also agreed by the parties that to  
24 reimburse the Chamber of Commerce for fundraising expenses. Mr. Reischmann advised that a final  
25 termination agreement will be presented to Council for approval. Mayor Erwin asked whether  
26 private contributions made to the project would be returned. Mr. Reischmann responded that that  
27 issue was not discussed.

28  
29 **9. APPROVAL OF MINUTES:** March 13, 2007 Regular Council Meeting

30  
31 **Council Member DeVane moved to approve the minutes of the**  
32 **February 13<sup>th</sup> Regular Meeting, seconded by Council Member Storke**  
33 **and passed by unanimous 6/0 voice vote of the Council.**

34  
35 **10. COUNCIL COMMENTS**

36  
37 Council Member Sherrill commended Ms. Smith for her work on the newsletter stating that it was “a  
38 job well done.”

39  
40 Council Member Allebach expressed his confidence that the events planned for the 125<sup>th</sup> would go  
41 well. He noted that the recent discord over the garbage issue seems to be resolved and that the City  
42 has not received any unfavorable press lately. He said that he is looking forward to next week.

43  
44 Council Member Storke said that he was ready to begin the 125<sup>th</sup> celebration.

45  
46 Council Member DeVane said that she was sorry she will have to miss the majority of the

1 celebration. She thanked staff involved in the planning.

2  
3 Vice Mayor Yebba thanked the VIA for the invitation to their recent luncheon.

4  
5 Mayor Erwin commended the anniversary committee for their work on planning the upcoming  
6 events.

7  
8 **11. ADJOURNMENT**

9  
10 There being no further business, Mayor Erwin adjourned the meeting at 8:35 p.m.

11  
12 **RESPECTFULLY SUBMITTED:**

**APPROVED ON**

13  
14  
15 Deborah J. Renner, CMC  
16 City Clerk

\_\_\_\_\_

17