

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,
2 Florida, held on Tuesday, September 11, 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; Donald
12 C. Sherrill, Joelle DeVane, Jeff H. Allebach; Robert A. Storke; City Manager John
13 McCue; City Attorney William Reischmann; City Clerk Deborah Renner

14
15 **ABSENT:** Council Member Jim Mahoney

16
17 The Invocation was given by Jim Kerr, Chief City Planner, followed by the Pledge of Allegiance.

18
19 1. **PRESENTATIONS:** Proclamation – Constitution Week

20
21 Nancy Kittrell, Daughters of the American Revolution (DAR), came forward. Mayor Erwin read a
22 proclamation into the record declaring the week of September 17th through 23rd as “Constitution
23 Week” in the City of Orange City. Ms. Kittrell accepted the proclamation on behalf of the DAR.

24
25 Mayor Erwin asked that everyone rise for a moment of recognition in honor of September 11, 2001.

26
27 Mr. McCue requested that Item 7-B be removed from the agenda to be brought back at a later time.

28
29 2. **CITIZENS COMMENTS:**

30
31 Art Oertel, 424 Midvale Court, Country Village, came forward and stated that, in spite of his having
32 an excellent payment history, when he turned is water service on last year, he was charged a \$140
33 deposit. Mr. Oertel said that he was told by Utilities staff that his deposit would be returned when
34 the house was sold and stated, “That means I won’t see that \$140 in my lifetime.” Mr. Oertel further
35 stated, “It seems like people are being involuntarily forced to invest with no return indefinitely in the
36 Company.” He questioned the legality of the deposit requirement. Mr. McCue said that the deposits
37 are returned to people who own their property as they can be liened for payment of their bill.
38 Christine Davis, Finance Director, advised that the deposits are returned in two years to customers
39 who own their property. However, in situations where the customer does not own the property, the
40 deposit is credited with interest and held until they move.

41
42 Mayor Erwin recalled that previous discussions regarding this matter had taken place and that he
43 thought it had been decided that a deposit would not be required for people who had been customers
44 previously. Mr. Oertel said that he thought it was a “terrible penalty for some little technicality
45 about renting or owning the property.” Mr. McCue said that the issue was to provide a mechanism
46 for the City to collect on payments that were owed. Mr. Oertel maintained that he should not be

1 penalized for customers who don't pay when he has had an excellent payment history. Mayor Erwin
2 said that he would like to see this issue addressed, noting that the electric company returns customer
3 deposits after a year.

4
5 Al Blue, 447 N. Oak, came forward and reported that the potholes he discussed last week have been
6 fixed and that he was told by Paul Johnson, Public Works Director, that the street signs he
7 mentioned were to be up in a few days. He asked for an update as to when the tower clock would be
8 fixed. Mr. McCue responded that the bells are fixed and chiming. Mr. Blue noted that in the
9 minutes of the last Council meeting, there was no comment regarding citizens who had written in
10 protest to the notice regarding the garbage assessment. He said that there were six citizens who had
11 filed a written objection to the assessment. Mr. Blue said that he did not see comments from Mrs.
12 Worsham, who spoke at the last meeting, in the minutes and said that he felt they should be
13 included, as well as the written comments that were received. Mr. Blue stated that he felt the
14 implementation resolution for the garbage assessment was not complied with because a copy of the
15 assessment roll did not accompany the resolution as called for. He related that he has been trying
16 unsuccessfully for some time to receive a proper copy of the assessment roll. Mr. Blue said that he
17 just received an "improved" copy of the roll, however, it is not in the form called for in the enabling
18 ordinance. In conclusion, Mr. Blue stated his belief that the resolution implementing the special
19 assessment is not valid since the protest letters were not read into the record, that the tax roll was not
20 available at the time the resolution was passed and was not available in the City Manager's office.
21 He stated, "I would ask that all of you take a close look at it and make a determination of what you
22 should do with respect to assessing each and every homeowner in this town \$259. Thank You."

23
24 Hugh Strickland, 420 May Street, came forward and spoke in support of Mr. Blue's statement that
25 the resolution implementing the garbage assessment be repealed and that the billing be done
26 monthly.

27
28 **3. CONSENT AGENDA:** None at this time

29
30 **4. ORDINANCES - FIRST READING:**

- 31
32 **A. ORDINANCE NO. 318:** An ordinance of the City of Orange City, Florida,
33 amending ordinance 90-05-08, said ordinance being the Comprehensive Plan; and the
34 Future Land Use Map of the Future Land Use Element of the Comprehensive Plan;
35 changing the future land use designation of a certain John Knox Village Silverstone
36 parcel, consisting of approximately 0.35 acres generally located on the southwest
37 corner of South Silverstone Court and West Silverstone Court; from its present future
38 land use designation of Volusia County (ULI) Urban Low Intensity to a future land
39 use designation of (MX) Mixed Use; containing a repealer provision, a severability
40 clause and providing for an effective date.

41
42 **Council Member Sherrill moved to adopt Ordinance No. 318 on first**
43 **reading, seconded by Vice Mayor Yebba.**

44
45 Jim Kerr, Chief City Planner, came forward and identified the location of the subject property on a
46 map. Mr. Kerr advised that the first step is to change the land use on a small portion of the property

1 and then to rezone the entire project area. He said that staff recommends that the Land Use of the
2 subject property be changed.

3
4 Council Member Storke noted that the minutes of the Planning Commission meeting regarding this
5 property were not available and he asked Mr. Kerr if anything unusual resulted at that meeting. Mr.
6 Reischmann advised that the proposed land use change was approved unanimously by the Planning
7 Commission.

8
9 Council Member Allebach noted that the surrounding parcels are within the unincorporated area.

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

- 12
13 **B. ORDINANCE NO. 316:** An ordinance of the City of Orange City, Florida,
14 amending Section 8.3 of the City's Land Development Code, said section being the
15 official zoning map of the City of Orange City, Florida; said amendment changing the
16 zoning classification of the John Knox Village property, consisting of approximately
17 5.69 acres of property generally located east of the John Knox Village Assisted
18 Living Facility; from its present zoning classification of (R-3) Urban Single Family
19 Residential and (M-2) Mixed Use to (R-PUD) Residential Planned Unit
20 Development; containing a repealer provision, a severability clause and providing for
21 an effective date.

22
23 **Council Member Allebach moved to adopt Ordinance No. 316 on first**
24 **reading, seconded by Council Member DeVane.**

25
26 Mr. Kerr continued his presentation by noting that there would be fourteen dwelling units
27 constructed on the thirteen subject lots. He advised that the site plan would be considered at the next
28 meeting. Mr. Kerr noted that because it is an assisted living facility, the impact of the proposed
29 development would be of a lower impact than single family dwellings. He advised that staff and the
30 Planning Commission approve the proposed rezoning.

31
32 Vice Mayor Yebba advised that he was in attendance at the Planning Commission meeting when this
33 matter was considered and that they did "a fine job" of reviewing the project.

34
35 **Motion passed by unanimous 6/0 roll call vote of the Council.**

- 36
37 **5. PUBLIC HEARINGS/ORDINANCES – SECOND & FINAL READING:** None at this
38 time.

39
40 **6. RESOLUTIONS:**

41
42 Mr. McCue suggested that Agenda Item 6-D, Resolution No. 426-07 be considered prior to action on
43 Resolution No. 430-07. Mr. Reischmann noted that a revised version of Resolution No. 430-07 was
44 distributed to Council which eliminates reference to the Street lighting Assessment and reduces the

45
46 amount to be considered for financing from \$1,400,000 to \$800,000 to be used for the Rhode Island

1 project.

2
3 Mayor Erwin asked for consideration of Resolution No. 426-07 and noted that this item had been
4 continued from August 28, 2007. He advised that a motion for adoption of the Resolution had been
5 made and seconded at that meeting.

6
7 **D. RESOLUTION NO. 426-07:** A resolution of the City Council of the City of Orange
8 City, Florida, relating to the provision of commercial corridor street lighting local
9 improvements within the commercial corridor street lighting capital and maintenance
10 assessment area; providing authority and definitions; creating the commercial corridor
11 street lighting capital and maintenance assessment area; confirming the initial
12 assessment resolution; approving the capital assessment roll; approving the
13 maintenance assessment roll; providing for the imposition of the commercial corridor
14 street lighting capital and maintenance assessments; providing for collection of the
15 assessments pursuant to the uniform assessment collection act; providing for the
16 effect of this resolution; providing severability and an effective date. *(Continued*
17 *from 8/28/07)*

18
19 **Motion failed by unanimous 0/6 roll call vote of the Council.**

20
21 Ernie Senez, 1060 E. Industrial Drive, came forward and thanked the Council for “standing
22 with us here in the community.”

23
24 Al Blue, 447 N. Oak, came forward and stated that he is “in full concurrence with the
25 Council.” Mr. Blue stated, “I find it interesting, however, that Council has determined to
26 table the assessment of the commercial side of the community when it did not table the
27 homeowners side of the community.”

28
29 **A. RESOLUTION NO. 430-07:** A resolution of the City Council of the City of Orange
30 City, Florida, authorizing the City Manager to execute BB&T commitment for
31 financing of up to \$800,000 to finance a portion of the Rhode Island Transportation
32 project cost as authorized by the City Council of the City of Orange City; repealing
33 all resolutions in conflict herewith and providing for an effective date.

34
35 **Council Member Storke moved to adopt Resolution No. 430-07,**
36 **seconded by Council Member Allebach.**

37
38 Mr. McCue noted that Resolution No. 430-07 has been revised to reflect a cost of up to \$800,000
39 and that the \$600,000 for the Street lighting District has been removed. He advised that this project
40 will extend West Rhode Island Avenue to the new high school.

41
42 Christine Davis, Finance Director, came forward and noted that the City issued an RFP on July 26,
43 2007 for financing for the Rhode Island Project. She advised that there would be no adjustment to
44 the terms of the financing with the exclusion of the street lighting district. Ms. Davis advised that
45 seven proposals were received in response to the RFP, and that BB&T is being recommended by
46 staff. The proposed resolution only allows staff to commit to BB&T for the financing and an

1 ordinance would be presented to Council to authorize the loan documents. She said that \$400,000 is
2 included in the proposed budget with the remaining \$400,000 to be funded through impact fee funds.
3 Once the budget is adopted, the final numbers reflecting the loan and impact fee proceeds will be
4 reflected.

5
6 In response to a question from Council Member Allebach, Ms. Davis stated that by making the
7 commitment for the loan, the City has locked in the terms for the financing. Mr. McCue noted that
8 the City received good rates on the loan because of its excellent credit rating.

9
10 Al Blue, 447 N. Oak, came forward and said that he had concerns regarding the way the resolution
11 was written as it included the wording and/or in regard to financing for the street lighting project.
12 He stated, "I would hope that when we spend monies like \$800,000 or more, that we don't use
13 terminology and/or. An \$800,000 bill ought to stand alone and be approved as a standalone figure
14 rather than have it confused with something else."

15
16 Hugh Strickland, 420 May Street, came forward and thanked Council for changing the resolution.
17 He stated, "There was a lot of concern when this came out and got around the community. So that's
18 good, you did good. Now, we just need that other thing repealed."

19
20 **Motion to adopt Resolution No. 430-07 passed by unanimous 6/0 roll**
21 **call vote of the Council.**

- 22
23 **B. RESOLUTION NO. 431-07:** A resolution of the City Council of the City of Orange
24 City, Florida, authorizing the appropriate city officials to enter into an agreement with
25 the Orange City Little League for use of certain facilities located within Valentine
26 Park; repealing all resolutions in conflict herewith and providing for an effective date.

27
28 **Council Member Allebach moved to adopt Resolution No. 431-07,**
29 **seconded by Vice Mayor Yebba.**

30
31 Mr. McCue advised that the proposed contract will add a girl's fast pitch softball program to the
32 Little League program at Valentine Park. He said that the City currently has a good working
33 relationship with the Little League. Mr. McCue advised that the construction of the new ball field
34 for the girls team will be a joint project between the City, Little League, the parents and the business
35 community. The City's portion of the project will be to fund the lights. The project is expected to
36 be completed for summer league.

37
38 Council Member Sherrill said that he is pleased with the City's relationship with the Little League
39 over the past couple of years.

40
41 BEGIN TAPE 1-B

42
43 **Motion passed by unanimous 6/0 roll call vote of the Council.**

- 44
45 **C. RESOLUTION NO. 432-07:** A resolution of the City Council of the City of Orange
46 City, Florida, pursuant to Sections 4.03, 4.04 and 4.05 of the City Charter listing

1 candidates and certifying the form of ballot for the primary election to be held on
2 October 9, 2007, repealing all resolutions in conflict herewith and providing for an
3 effective date.

4
5 Vice Mayor Yebba moved to adopt Resolution No. 432-07, seconded by
6 Council Member Sherrill.

7
8 The City Clerk announced that qualifying ended last Thursday at noon and that three candidates
9 qualify for Seat #5, causing the City to have a primary election.

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

12
13 **7. DISCUSSION AND ACTION:**

14
15 A. City Clerk's Evaluation

16
17 Mayor Erwin advised that the evaluation forms distributed a couple of weeks ago for the City
18 Clerk's Annual Evaluation had been returned and tabulated. The combined overall rating for the
19 evaluations is 3.33 and that in most categories, she was rated in the above average to exceptional
20 range.

21
22 **Council Member Sherrill moved to grant the City Clerk a 5%
23 increase in salary, seconded by Council Member Allebach.**

24
25 Mayor Erwin stated that he appreciates the services of the City Clerk and that she does a "super job,"
26 however, due to the financial uncertainties of the future, he would be in favor of a 3% increase.
27 Council Member DeVane agreed with Mayor Erwin that the City Clerk does an "excellent job," but
28 she felt that her increase should not be more than the other employees. Council Member Storke
29 asked whether the Clerk receives a cost of living increase. Mayor Erwin responded in the
30 affirmative. Vice Mayor Yebba agreed with Mayor Erwin.

31
32 **Both the motion maker and seconder withdrew their motion and second.**

33
34 **Council Member Sherrill moved to grant the City Clerk a 3%
35 increase in salary, seconded by Council Member Allebach.**

36
37 Council Member Allebach stated, "The argument against the uncertainty, based on that 3%, if the
38 City can't afford \$1,000 no matter what the state legislature does, we have other major problems."
39 He agreed with keeping the increase in line with other employees, however, not for financial
40 reasons.

41
42 In regard to the legislators in Tallahassee, Vice Mayor Yebba stated, "It's so bad up there they refuse
43 to go up there themselves and we'd all be better off if they'd just stay home."

44
45 **Motion passed by unanimous 6/0 voice vote of the Council.**

46

1 B. Amendment to the Interlocal Agreement for Public School Facility

2
3 This item was withdrawn at staff's request.

4
5 **8. REPORTS:**

6
7 A. City Manager

8
9 Mr. McCue announced that the clock is working and that they would be working with the new
10 clockmaker to get it timed properly.

11
12 Mr. McCue advised that the fountains have been sealed and that they are currently running.

13
14 Mr. McCue stated that the Freedom Festival had \$8,000 in excess funds remaining. He said that
15 Orange City was the primary force in planning the event this year. He said that he and Angel
16 Smith, Community Relations Coordinator, would be meeting with the Mayors tomorrow to provide
17 a report on the event. Mr. McCue said that the cost of this year's event was half of the previous year
18 and still there was money left for next year's event. Mayor Erwin said that he has been receiving
19 comments from the other cities involved in the Freedom Festival that they would be cutting back on
20 their commitment next year. Mr. McCue suggested that the show be limited to fireworks only next
21 year and funded with donations.

22
23 Council Member Sherrill congratulated Ms. Smith on completing one year of service with the City.

24
25 Mr. McCue noted three issues that the City pursued during the legislative session last year as
26 follows: the statutes governing the issuance of COPCNs, the GEL landfill issue, and the historic
27 grant for Town Hall renovation. Mr. McCue advised that this was the first time the City did
28 independent lobbying for an issue. He provided updates on these issues as follows: Closest Unit
29 Response is on hold because of the County; DEP is pressing for new statutory requirements that will
30 require landfill permit applications to have local zoning approval; the City has been notified that it
31 will receive its historic preservation grant.

32
33 B. Mayor/City Council

34
35 Mayor Erwin reported on the Smart Growth Committee Meeting held yesterday. He said that there
36 was extensive discussion regarding Map A. It appears there are still a couple of areas of
37 disagreement. A presentation was made by Glatting Jackson. They have been working with several
38 counties regarding their smart growth plans. The firm wanted \$150,000 to work with Volusia
39 County's Smart Growth Committee, however, there is no funding at the present time. Mayor Erwin
40 advised that the League of Women Voters has been following the smart growth movement for some
41 time and that a comment was made by them commending Orange City for their growth policies over
42 the past few years. Mayor Erwin noted that Orange City was the first city in Volusia County to
43 adopt Mixed-Use zoning.

44
45 Council Member Allebach stated that he is on the Home Rule Committee for the Florida League of
46 Cities Legislative Council. He said that one of the issues that has arisen is the COPCN which is

1 being addressed in a subcommittee of the Council.

2

3 C. City Clerk

4

5 The City Clerk announced that the Supervisor of Elections is sponsoring a canvassing board training
6 on October 3rd at 1:30 p.m. and she encouraged all board members to attend. Ms. Renner advised
7 that absentee ballots will be mailed out September 12th and 13th and early voting will be held
8 October 1st through October 6th at the Supervisor of Elections Office and the Deltona Library. She
9 reminded Council that the L&A test is scheduled for September 21st at 9:00 a.m. at the Elections
10 Warehouse.

11

12 D. City Attorney

13

14 The City Attorney had nothing further to report.

15

16 9. **APPROVAL OF MINUTES:** August 28, 2007 Regular Council Meeting

17

18 **Council Member Storke moved to approve the minutes of the August**
19 **28, 2007 Regular Meeting, seconded by Council Member**

20

21 The City Clerk noted a correction on Page 10, the reference to the July 24th minutes
22 should say August 7 and August 14.

23

24 **Motion passed by unanimous 6/0 voice vote of the Council and the**
25 **minutes were approved as amended.**

26

27 **10. COUNCIL COMMENTS**

28

29 There was no further comment from the Council.

30

31 **11. ADJOURNMENT**

32

33 There being no further business, Mayor Erwin adjourned the meeting at 8:15 p.m.

34

35 **RESPECTFULLY SUBMITTED:**

36

37

38 Deborah J. Renner, CMC

39 City Clerk

APPROVED ON

9/25/07