

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida,  
2 held on Tuesday, December 09, 2008 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange  
3 City.

4  
5 **CALL TO ORDER**

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

8  
9 **ROLL CALL**

10  
11 **PRESENT:** Mayor Harley Strickland; Vice Mayor Jeff Allebach; Council Members; Tom Laputka,  
12 Tom Abraham, Don Sherrill, Donald Sandford, Jim Mahoney; City Attorney William Reischmann;  
13 Interim City Manager Chester Murray, City Clerk Deborah Renner

14  
15 **INVOCATION**

16  
17 The Invocation was given by Chaplain Joyce Smith, followed by the Pledge of Allegiance.

18  
19 **1. ABSENCES:**

20  
21 Shall the absence of Council Member Donald Sandford on November 18, 2008 be excused?

22  
23 Shall the absence of Council Member Jim Mahoney on November 18, 2008 be excused?

24  
25 Mr. Reischmann stated that this section is a recent addition to the agenda. He discussed the background  
26 for the implementation of this rule noting it is a requirement of the recent amendment to the *Council*  
27 *Rules & Procedures*. Mr. Reischmann advised that a motion and roll call vote is required to excuse an  
28 absence. Discussion ensued about the best way to proceed. It was suggested that Council begin with  
29 the question of Council Member Mahoney's absence because Council Member Sandford was not  
30 present.

31  
32 **Council Member Sherrill moved that the Council discuss Council Member**  
33 **Mahoney's absence from the November 18, 2008 Regular Meeting, seconded**  
34 **by Council Member Laputka.**

35  
36 Council Member Mahoney advised that he was not able to attend the November 18<sup>th</sup> meeting due to his  
37 work schedule.

38  
39 **Vice Mayor Allebach moved to excuse Council Member Mahoney's absence**  
40 **from the November 18, 2008 Regular Meeting, seconded by Council Member**  
41 **Laputka and passed by a 5/1 voice vote of the Council, with Council Member**  
42 **Mahoney voting "no."**

43  
44 Council Member Sandford arrived at 7:15 p.m.

45  
46 **Council Member Sherrill moved that Council Member Sandford's absence**  
47 **from the November 18, 2008 Regular Council Meeting not be excused,**  
48 **seconded by Vice Mayor Allebach.**

1  
2 Council Member Sandford stated that he had work commitments that prevented him from being present.  
3

4 **Motion failed by 1/6 voice vote of the Council, with Council Members**  
5 **Mahoney, Abraham, Sandford, Laputka, Vice Mayor Allebach and Mayor**  
6 **Strickland voting “no.”**  
7

8 Mayor Strickland recommended that in the future, Council Members provide the City Clerk written  
9 notification of their absence from a meeting. Copies of the notification will be provided in the agenda  
10 packet for the following meeting.  
11

12 2. **PRESENTATIONS:** Dave Strong & Mary Reda, Home Depot  
13

14 Mr. Dave Strong and Ms. Mary Reda from Home Depot came forward and noted that they heard the  
15 Mayor really wanted a “fire truck kit” like those given at the Fire Department Open House, but was not  
16 able to get one. They presented Mayor Strickland with a kit and customized Home Depot apron.  
17

18 The City Clerk presented Certificates of Completion to the Council Members that attended the 2008  
19 Advanced Institute for Elected Municipal Officials. Ms. Renner expressed pride that the majority of the  
20 Council completed both sessions. She stated, “It’s a big deal and I am sure that you benefited by it.”  
21 Mayor Strickland thanked Ms. Renner for her support and efforts. He said it was a great opportunity to  
22 meet other elected officials from all over the state.  
23

24 3. **CITIZENS COMMENTS:**  
25

26 Laurel L. Price, 715 Oak Terrace came forward and stated that there is an ongoing problem on Oak  
27 Terrace with feral cats and that her calls to Animal Control went unanswered for three months. She said  
28 Animal Control finally provided crates and she was able to catch one of the cats but was not able to  
29 reach them to have it removed. The cat stayed in the crate without food or water for 24 hours before she  
30 called the Orange City Police Department for help. Ms. Price said that numerous attempts to contact  
31 Animal Control to remove the other cats have also been unsuccessful. She said she was advised that she  
32 would have to go door to door to see if the cat belongs to someone on the street. Ms. Price remarked  
33 that the cats are becoming a nuisance. Her mother was attacked recently and she wants something to be  
34 done. Mayor Strickland suggested that this issue be placed on a future agenda for discussion.  
35

36 Kathie Gennrich, 514 Patlin Avenue came forward and said that she was present for an update on the  
37 video gambling establishments in the City. She said she previously brought the matter to the Council’s  
38 attention and had been receiving updates from Council Member Laputka. However, she has noticed that  
39 a new establishment has just opened next to John's Appliances. She questioned what happened to the  
40 City’s plans for a moratorium and asked why the latest location was allowed to open.  
41

42 Mr. Murray responded that he agrees with Ms. Gennrich that video gaming is gambling, however the  
43 Department of Agriculture says that it is not. He explained that when an arrest is made by a City police  
44 officer, it is turned over to the State Attorney’s Office and it is up to them to bring charges. Thus far,  
45 the State Attorney’s Office has refused to prosecute. He said a new State Attorney has been elected and  
46 the City is waiting to see his position on the matter. Mr. Murray advised that at the present time, the  
47 City's hands are tied. Several applications for these types of establishments have been denied due to  
48 zoning issues, however, if there are no such issues, the City cannot deny the application. Mr.

1 Reischmann explained that if the City could get clear guidance from the State Attorney's Office  
2 regarding the legality of video gaming, it could fight the permits for these establishments.

3  
4 Hugh Strickland, 420 May Street came forward and said that the City of Pierson has signed a contract  
5 with Emerald Waste Services for \$165/yr. To keep the cost down the garbage assessment was put on  
6 the non ad valorem tax roll. Mr. Strickland said that he contacted Emerald Waste and was advised there  
7 are approximately 480 customers in Pierson but they only have billing records for 227. He stated,  
8 "...they can't figure out who they're serving and who they're billing" and suggested that the collection  
9 of the garbage assessment through the non ad valorem tax roll is a type of "municipal bailout." Mr.  
10 Strickland noted that Orange City's contract with Emerald Waste is similar to the Pierson contract  
11 however, Pierson's costs are lower. He asked Council to consider renegotiating Orange City's contract  
12 with Emerald Waste and to have the garbage assessment removed from the tax roll.

13  
14 **4. CONSENT AGENDA:** None at this time.

15  
16 **5. ORDINANCES – FIRST READING**

- 17  
18 **A. ORDINANCE NO. 367:** An ordinance of the City of Orange City, Florida,  
19 amending Orange City Code Appendix A, Zoning Ordinance as adopted by  
20 Ordinance No. 157, amending Chapter 8, Section 8.6.1 Schedule of Zoning  
21 District Permitted and Conditional Uses; to permit recycling activities within  
22 the I-PUD Zoning District; providing for conflicting provisions; providing for  
23 severability; providing an effective date.

24  
25 **Council Member Laputka moved to adopt Ordinance No. 367 on first**  
26 **reading, seconded by Council Member Sherrill.**

27  
28 Jim Kerr, City Planner came forward and stated the purpose of this ordinance is to amend the Land  
29 Development Code to allow household and construction and demolition recycling activities in Orange  
30 City. Referring to a power point presentation (a copy of which is attached and becomes a permanent  
31 part of these minutes) he listed the various items that would be included in these types of recycling  
32 facilities.

33  
34 Mayor Strickland asked why this change is being made now. Mr. Reischmann responded this is part of  
35 the City's pending civil lawsuit against GEL Corp. He explained the City had contended that GEL's  
36 operations are not a permitted use. As a result GEL has agreed to submit applications for development  
37 orders to continue their operations. In order to process the applications the City must amend its Land  
38 Development Code. Mr. Reischmann reiterated that this is a necessary step to move forward with a  
39 settlement with GEL. Mr. Murray detailed the application process. He said the proposed use is  
40 Industrial Planned Unit Development (I-PUD) and would include a developer's agreement which allows  
41 the City enforcement authority. He noted that future recycling operations would have to meet these new  
42 requirements.

43  
44 Council Member Laputka questioned what would happen to waste that is not recyclable, but gets mixed  
45 in with the recycling. Mr. Reischmann suggested the addition of two words in footnote 12. It would  
46 read "...recoverable/recyclable material previously extracted from household waste streams." He said  
47 that would mandate that only separated household recyclable materials be taken in and would prevent  
48 extraction at the GEL site.

1 Council Member Mahoney suggested that the Florida Administrative Code be included in the  
2 Ordinance. Mr. Reischmann recommended that a subsection c. be added to Section 8.6.1 footnotes 12  
3 and 13 which states that the operations must comply with Department of Environmental Protection  
4 (DEP) permits and all applicable State laws.

5  
6 **Council Member Mahoney moved to amend Ordinance No. 367,**  
7 **Attachment A 8.6.1 Schedule of Zoning District Permitted and**  
8 **Conditional Uses to add previously extracted to the first sentence of**  
9 **footnote 12; add a subsection c to footnotes 12 and 13 which states**  
10 **“Operations must comply with the Department of Environmental**  
11 **Protection permits and all applicable State laws,” seconded by Vice**  
12 **Mayor Allebach.**

13  
14 The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
15 the proposed Ordinance. No one appeared. The Mayor closed the public hearing.

16  
17 **Motion to amend passed by a 7/0 roll call vote of the Council.**

18  
19 **Main Motion as amended passed by a 6/1 roll call vote of the Council**  
20 **with Vice Mayor Allebach voting “no”.**

21  
22 **6. PUBLIC HEARING/ORDINANCES – SECOND & FINAL READING:**

23  
24 **A. ORDINANCE NO. 368:** An ordinance of the City Council of the City of Orange City,  
25 Florida, providing for a non-exclusive franchise to 4 Jays Management, Inc. for the  
26 collection and disposal of commercial trash, garbage, recyclable materials and other  
27 refuse within the city limits; providing for definitions, terms condition, rates, compliance  
28 with laws, arbitration, standards of performance, collection regulation operations, hours,  
29 routes, penalties, accounting, complaint resolutions; containing a repealer provision; a  
30 severability clause and providing for an effective date.

31  
32 **Council Member Mahoney moved to adopt Ordinance No. 368 on**  
33 **second and final reading, seconded by Council Member Laputka.**

34  
35 The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
36 the proposed Ordinance. No one appeared. The Mayor closed the public hearing.

37  
38 **Motion passed by a 7/0 roll call vote of the Council.**

39  
40 **B. ORDINANCE NO. 369:** An ordinance of the City Council of the City of Orange City,  
41 Florida, providing for a non-exclusive franchise to Waste Pro for the collection and  
42 disposal of commercial trash, garbage, recyclable materials and other refuse within the  
43 city limits; providing for definitions, terms condition, rates, compliance with laws,  
44 arbitration, standards of performance, collection regulation operations, hours, routes,  
45 penalties, accounting, complaint resolutions; containing a repealer provision; a  
46 severability clause and providing for an effective date.

47

1                   **Council Member Laputka moved to adopt Ordinance 369 on second**  
2                   **and final reading, seconded by Council Member Sherrill.**

3  
4                   The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
5                   the proposed Ordinance. No one appeared. The Mayor closed the public hearing.

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

- 8  
9                   **C.        ORDINANCE NO. 370:** An ordinance of the City Council of the City of Orange City,  
10                  Florida, providing for a non-exclusive franchise to Container Rental Company, Inc.  
11                  (CRC) for the collection and disposal of commercial trash, garbage, recyclable materials  
12                  and other refuse within the city limits; providing for definitions, terms condition, rates,  
13                  compliance with laws, arbitration, standards of performance, collection regulation  
14                  operations, hours, routes, penalties, accounting, complaint resolutions; containing a  
15                  repealer provision; a severability clause and providing for an effective date.

16  
17                  **Council Member Sandford moved to adopt Ordinance 370 on second**  
18                  **and final reading, seconded by Vice Mayor Allebach.**

19  
20                  The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
21                  the proposed Ordinance. No one appeared. The Mayor closed the public hearing.

22  
23                  **Motion passed by a 7/0 roll call vote of the Council.**

- 24  
25                  **D.        ORDINANCE NO. 371:** An ordinance of the City Council of the City of Orange City,  
26                  Florida, providing for a non-exclusive franchise to Sunshine Recycling Inc. for the  
27                  collection and disposal of commercial trash, garbage, recyclable materials and other  
28                  refuse within the city limits; providing for definitions, terms condition, rates, compliance  
29                  with laws, arbitration, standards of performance, collection regulation operations, hours,  
30                  routes, penalties, accounting, complaint resolutions; containing a repealer provision; a  
31                  severability clause and providing for an effective date.

32  
33                  **Vice Mayor Allebach moved to adopt Ordinance 371 on second and**  
34                  **final reading, seconded by Council Member Sandford.**

35  
36                  The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
37                  the proposed Ordinance. No one appeared. The Mayor closed the public hearing.

38  
39                  **Motion passed by a 6/1 roll call vote of the Council, with Mayor**  
40                  **Strickland voting ‘no’.**

- 41  
42                  **E.        ORDINANCE NO. 372:** An ordinance of the City Council of the City of Orange City,  
43                  Florida, providing for a non-exclusive franchise to Russo and Sons, Inc. Environmental  
44                  Services for the collection and disposal of commercial trash, garbage, recyclable  
45                  materials and other refuse within the city limits; providing for definitions, terms  
46                  condition, rates, compliance with laws, arbitration, standards of performance, collection  
47                  regulation operations, hours, routes, penalties, accounting, complaint resolutions;  
48                  containing a repealer provision; a severability clause and providing for an effective date.

1  
2           **Council Member Sandford moved to adopt Ordinance 372 on second**  
3           **and final reading, seconded by Council Member Mahoney.**  
4

5 The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
6 the proposed Ordinance. No one appeared. The Mayor closed the public hearing.  
7

8           **Motion passed by a 7/0 roll call vote of the Council.**  
9

- 10       **F.       ORDINANCE NO. 373:** An ordinance of the City Council of the City of Orange City,  
11 Florida, providing for a non-exclusive franchise to Emerald Waste Services, LLC (EWS)  
12 for the collection and disposal of commercial trash, garbage, recyclable materials and  
13 other refuse within the city limits; providing for definitions, terms condition, rates,  
14 compliance with laws, arbitration, standards of performance, collection regulation  
15 operations, hours, routes, penalties, accounting, complaint resolutions; containing a  
16 repealer provision; a severability clause and providing for an effective date.  
17

18           **Council Member Mahoney moved to adopt Ordinance 373 on second**  
19           **and final reading, seconded by Vice Mayor Allebach.**  
20

21 The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
22 the proposed Ordinance. No one appeared. The Mayor closed the public hearing.  
23

24           **Motion passed by a 6/1 roll call vote of the Council, with Council**  
25           **Member Sandford voting ‘no’.**  
26

- 27       **G.       ORDINANCE NO. 374:** An ordinance of the City Council of the City of Orange City,  
28 Florida, providing for a non-exclusive franchise to Orlando Waste Paper Co., Inc. for the  
29 collection and disposal of commercial trash, garbage, recyclable materials and other  
30 refuse within the city limits; providing for definitions, terms condition, rates, compliance  
31 with laws, arbitration, standards of performance, collection regulation operations, hours,  
32 routes, penalties, accounting, complaint resolutions; containing a repealer provision; a  
33 severability clause and providing for an effective date.  
34

35           **Council Member Mahoney moved to adopt Ordinance 374 on second**  
36           **and final reading, seconded by Vice Mayor Allebach.**  
37

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

41           **Motion passed by a 6/1 roll call vote of the Council, with Mayor**  
42           **Strickland voting ‘no’.**  
43

- 44       **H.       ORDINANCE NO. 375:** An ordinance of the City Council of the City of Orange City,  
45 Florida, providing for a non-exclusive franchise to Waste Services of Florida, Inc. for  
46 the collection and disposal of commercial trash, garbage, recyclable materials and other  
47 refuse within the city limits proving for definitions, terms condition, rates, compliance  
48 with laws, arbitration, standards of performance, collection, regulation operations, hours,

1 routes, penalties, accounting, complaint resolutions; containing a repealer provision; a  
2 severability clause and providing for an effective date.

3  
4 **Council Member Laputka moved to adopt Ordinance 375 on second**  
5 **and final reading, seconded by Council Member Sandford.**

6  
7 The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
8 the proposed Ordinance. No one appeared. The Mayor closed the public hearing.

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

11  
12 **7. RESOLUTIONS:**

13  
14 **A. RESOLUTION NO. 512-08:** A resolution of the City of Orange City, Florida electing  
15 to use the uniform method of collecting non-ad valorem special assessments levied  
16 within the incorporated area of the City; stating a need for such levy; providing for the  
17 mailing of this resolution; and providing for an effective date.

18  
19 **Council Member Mahoney moved to approve Resolution No. 512-08,**  
20 **seconded by Council Member Laputka.**

21  
22 The Mayor opened the public hearing by asking if anyone wished to speak in favor of or in opposition to  
23 the proposed resolution.

24  
25 Mr. Murray advised that the proposed resolution is an administrative tool for the City, a notification  
26 process to the property appraiser and tax collector that the City may choose to use a non ad valorem tax  
27 assessment to fund specific projects. He noted that the Council has authorized this resolution for the  
28 past seven years.

29  
30 John Fair, 1280 S. Volusia Avenue, came forward and questioned what assurances are there the  
31 resolution would not be misused. He spoke about the issue of a street lighting district forming last year  
32 without prior approval from the property owners affected. Council Member Mahoney assured Mr. Fair  
33 that this resolution is necessary in order to enact an assessment and that an ordinance would have to  
34 come before the Council before it could be utilized.

35  
36 Bill Abell, Business owner 1040 S. Volusia Avenue, came forward and expressed his concerns that this  
37 resolution allows the City to make any assessment that it may deem necessary. He suggested that  
38 alternative funding sources be sought before an assessment is made. Mr. Murray reiterated that this  
39 resolution is a legal requirement and that there is a lengthy legal process involving public hearings,  
40 advertisements, and notice to property owners before an assessment could be levied. Mr. Reischmann  
41 commented that usually a special taxing district is implemented when a property owner or neighborhood  
42 asks for assistance to fund capital improvement projects. Without this resolution in place, the City  
43 would not be able to provide assistance. He reiterated that only the property owners benefiting from the  
44 improvement would be assessed.

45  
46 Mayor Strickland noted that the resolution is confusing and appears that an assessment is eminent but  
47 that is not the purpose. He stated, "It is not anything hidden. It is a regulatory requirement that must be  
48 in place in order to enact a special taxing district and it must be redone every year." He noted that a

1 voluntary special assessment district will be discussed later this evening and encouraged everyone to be  
2 present.

3  
4 Hugh Strickland, 420 May Street came forward and suggested that Council consider requiring that the  
5 majority of the property owners being assessed consent to a special assessment before it is enacted.

6  
7 Council Member Mahoney questioned striking (iii) fire protection services from the resolution. He said  
8 it is the stated intention of the Council not to form a special assessment for fire protection services and  
9 suggested the language be removed. Mr. Murray explained the circumstances that may require the  
10 formation of a fire protection service assessment. He reiterated there are no fire protection assessments  
11 being considered at this time. Discussion ensued about whether to include the language in the  
12 resolution. Council Member Mahoney noted it would not be well received if the Council decided to  
13 implement this assessment at a later time.

14  
15 **Council Member Mahoney moved that the reference to fire protection**  
16 **services in subsection (iii) be removed from Resolution No. 512-08.**  
17 **Motion died due to the lack of a second.**  
18

19 The Mayor closed the public hearing.

20  
21 **Motion passed by a 7/0 roll call vote of the Council.**  
22

- 23 **B. RESOLUTION NO. 515-08:** A resolution of the City Council of the City of Orange  
24 City, Florida, providing notice to the Volusia County Supervisor of Elections of Orange  
25 City's intent to hold a referendum election by mail ballot on February 17, 2009 for the  
26 purpose of proposing amendments to the city charter, repealing all resolutions in conflict  
27 herewith and providing for an effective date.

28  
29 **Council Member Sandford moved to approve Resolution No. 515-08,**  
30 **seconded by Council Member Abraham.**  
31

32 Mr. Reischmann stated this resolution is required by the City Charter. It is a notification to the  
33 Supervisor of Elections of the City's intent to hold a referendum election by mail ballot on February 17,  
34 2009. He noted the following Resolution certifies the form of the ballot for the referendum election.

35  
36 **Motion passed by a 7/0 roll call vote of the Council.**  
37

- 38 **C. RESOLUTION NO. 516-08:** A resolution of the City Council of the City of Orange  
39 City, Florida, pursuant to Sections 4.04 and 4.05 of the City Charter certifying the form  
40 of ballot for the referendum election to be held on February 17, 2009; repealing all  
41 resolutions in conflict herewith and providing for an effective date.

42  
43 **Council Member Sandford moved to approve Resolution No. 516-08,**  
44 **seconded by Council Member Laputka.**  
45

46 **Motion passed by a 7/0 roll call vote of the Council.**  
47

- 48 **D. RESOLUTION NO. 517-08:** A resolution of the City Council of the City of Orange

1 City, Florida, authorizing the Interim City Manager to execute an agreement with  
2 Government Services Group, Inc. to assist the City and its staff with the development of  
3 an assessment program for infrastructure improvements related to Sparkman Ridge; and  
4 providing for an effective date.  
5

6 **Council Member Mahoney moved to approve Resolution No. 517-08,**  
7 **seconded by Council Member Laputka.**  
8

9 Mayor Strickland stated that the City has worked very hard to get three schools located in the area. He  
10 said residents have expressed concerns about the increased traffic as a result of the schools and  
11 construction in the area. He stated the City has a responsibility to address this issue.  
12

13 Mr. Murray commented that two of the schools are already open and that the new high school will open  
14 soon. Referring to a power point presentation (a copy of which is attached and becomes a permanent  
15 part of these minutes) he pointed out the location. Mr. Murray said that the construction of West Rhode  
16 Island Avenue in that area has caused traffic problems noting that the school buses are forced onto Ohio  
17 or Blue Springs Avenues to avoid the congestion. Originally the developer for the Sparkman Ridge  
18 Subdivision had agreed to extend Sparkman Avenue to West Rhode Island however due to the current  
19 market the project has been placed on hold. He suggested the extension would alleviate the traffic  
20 problems in the areas. Staff contacted the developer who requested a special taxing district to fund the  
21 extension of Sparkman Avenue.  
22

23 Mr. Murray said the City has an opportunity to sign a change order with the contractor building West  
24 Rhode Island Avenue to include the Sparkman extension and must move quickly to meet a January 31<sup>st</sup>  
25 deadline. He said a change order would avoid the increased cost of bidding out the job. The amount of  
26 the loan is approximately \$650,000 and includes \$110,000 for water, road and storm water  
27 improvements. He said that while the City has adequate funds, it is more prudent to finance the project  
28 at this time. He stressed that time is of the essence if the City is going to take advantage of the change  
29 order.  
30

31 Jeff Larsen, Investment Banker, D.A. Davidson came forward to discuss the financing options available  
32 to the City. He said this situation is different from the matter discussed earlier. Special assessment  
33 districts are financing tools available to the City and only the people who benefit would pay the  
34 assessment. By forming a special assessment district, the City is lending its ability to incur low interest  
35 loans. The developer would be obligated to repay the loan even if the property is not developed and  
36 usually that cost is passed on to the homeowners. Mr. Larson said that financing must be in place before  
37 a change order for the road extension could be signed. He suggested that the City consider a bank loan  
38 with capitalized interest. At the present time, BB&T is the only bank that would approve a loan for  
39 twenty years. Mr. Larson said that subject to Council's approval, he contacted BB&T and was told that  
40 they would consider an extended loan.  
41

42 Mr. Reischmann discussed the purpose of this agenda item. He detailed the options available and noted  
43 that staff has presented the most practical and efficient way to accomplish the task. He reiterated that  
44 time is a factor.  
45

46 Council Member Mahoney questioned the risks associated with a 20 year loan. He asked if the City  
47 would have to pay penalties if the loan was repaid early. Mr. Larson explained that the source of  
48 payment for the debt would come from an escrow account funded by the assessments. Council Member

1 Mahoney asked whether there would be “an interest spread risk.” Mr. Larsen responded by stating,  
2 “No, because it has to be 100% economically and legally defeased or the debt doesn’t go away.” He  
3 explained that either the assessments service the annual debt service or if it is pre-paid, the lien is not  
4 released until 1/250<sup>th</sup> of the pro rata share of the principal is in hand in a cash account. Mr. Reischmann  
5 clarified that if the interest is less than what is owed to the bank, there would be a higher pay off.  
6 Council Member Mahoney stated, “So you get some sort of a guaranteed investment contract to secure  
7 that rate.” Mr. Larson stated, “Yes.” He said that the assessment would show up as “debt on your  
8 books.”

9  
10 Mr. Larson asked whether Council wanted to request funding from BB&T or if he should solicit  
11 approved lenders. Council Member Mahoney questioned if this action would violate the City’s  
12 purchasing policies. Mr. Murray read from Section 12.3-33 – Unique Circumstances which states, “The  
13 City Council reserves the right to consider purchasing needs on their merits and may appropriate  
14 purchasing decisions for unique circumstances which may arise.” Discussion about including local  
15 financial institutions ensued. Mr. Larson noted that in addition to soliciting a commitment from BB&T  
16 he would contact a list of approved banks that might have an interest in providing the loan and report  
17 back to the City Council at the next meeting.

18  
19 **Motion passed by a 7/0 roll call vote of the Council.**

20  
21 **8. DISCUSSION AND ACTION:**

22  
23 **A. Storm water to Reuse Project Update**

24  
25 Paul Johnson, Public Works Director, came forward and gave an update on the stormwater to reuse  
26 project. Referring to a power point presentation, (a copy of which is attached and becomes a permanent  
27 part of these minutes), Mr. Johnson said that, after the storms of 2004, a study was done regarding the  
28 flooding issues in the Mill Lake area including the Farmer’s Market property. He noted that at one point  
29 in time, these two areas were one connected water body, prior to the Florida Department of  
30 Transportation (FDOT) taking Mill Lake and permitting it for management of stormwater from 17-92.  
31 He explained that Mill Lake is pumped to Blue Springs Creek, and from there to the river. Mr. Johnson  
32 noted that the St. Johns River is considered “an impaired water body.” He said that there is no discharge  
33 from Marshall Pond or Marshall Lake. He explained that the pumping that goes to Mill Lake at the St.  
34 Johns River is monitored and regulated by the Florida Department of Environmental Protection (FDEP)  
35 and has been permitted by the Water Management District. In response to a question from Council  
36 Member Sandford, Mr. Johnson explained that an “impaired water body” means that there are concerns  
37 about the quality of the water.

38  
39 After considering all available options, Mr. Johnson advised that a decision had been made as to a  
40 preferred alternative. He said that expansion of Mill Lake was not a viable option because it did not  
41 provide enough storage and would eliminate any potential recreational use of the land around the banks  
42 of the pond. Expansion of Mill Lake to include the Farmers Market property was considered, but it was  
43 determined that this would not be sufficient and would, again, eliminate any potential recreational use of  
44 the land.

45  
46 The final alternative considered is to pump water from Marshall Park to Mill Lake and then to the  
47 Southwest Regional Water Treatment Facility which is operated by Volusia County. He said that this  
48 was the method preferred by all interested parties. Mr. Johnson advised that this plan would provide

1 about 300 million gallons per year, or one million gallons per day (mgd). The cost estimate to  
2 implement this alternative is \$3.7 million. He said that any plan to redirect the water would be a “waste  
3 of a potential resources for the City.” Mr. Johnson noted that pumping to the water treatment facility  
4 would eliminate any flooding in Marshall Park and Mill Lake, as well as to the St. Johns River.

5  
6 Revenue estimates for the project at \$1 per 1,000 gallons would create a potential revenue source of  
7 \$300,000 for the City. Mr. Johnson said that the return on investment for this project is 12 years.

8  
9 Mr. Johnson discussed storage alternatives for the wet season. He said that FDOT owns some ponds in  
10 which liners could be installed to create 8 million gallons (mg) of storage space. In addition, FDOT  
11 owns a borrow pit on the west side of 17-92 at the intersection of Lansdowne which could provide an  
12 additional 5 mg of storage space. Altogether, there would be 13 mg of storage space.

13  
14 Mr. Johnson advised that Council has authorized staff to proceed with this project. He said that the first  
15 step is to acquire ownership and access to the desired properties which are currently owned by FDOT.  
16 Next, contract documents must be developed. Finally, financing partners must be identified. Mr.  
17 Johnson explained that recent construction related to the schools will make it easy to install a connection  
18 for the pump station to pump water directly to the treatment facility.

19  
20 Council Member Laputka asked what additional responsibilities the City would assume with the  
21 ownership of Mill Lake. Mr. Johnson responded that the City would construct an outfall on Thorpe  
22 Avenue which would double the “out-pumping” capacity of Mill Lake which would have a major  
23 positive effect on flooding in the area. An outfall is also planned for the retention area on the Public  
24 Works property. Council Member Laputka stated, “So the acquisition of Mill Lake gives us the option  
25 to do some things.” Mr. Johnson responded, “Correct.” He said that the City would be responsible for  
26 the transfer of water to the treatment facility or to an emergency outfall. The arrangement would  
27 generate revenue for the City in that FDOT would be paying the City to handle the stormwater from 17-  
28 92. Mr. Murray said that FDOT would also be asked to fund part of the cost to install the line down  
29 Thorpe Avenue. In response to a request for clarification from Council Member Laputka, Mr. Murray  
30 stated that the City will own Mill Lake, but would not have to pay for it. Mr. Johnson said that the  
31 transaction would be an “easement agreement acquisition.” It will also be considered an acquisition of  
32 surplus property from the State. He said that the State may not want to give up complete ownership of  
33 the ponds at Terrace Hill as they are desired for the dirt, however, the City would obtain joint use of the  
34 ponds. Mr. Murray said that although they don’t have signed agreements from FDOT, they have been  
35 told that they are in process.

36  
37 Mr. Murray said that the Carpenter Avenue project from Rhode Island to New York Avenue had been  
38 designed in three phases and due to a decrease in construction projects the City did not get the impact  
39 fees that were anticipated. If the project moves forward the City will fund the first two phases of the  
40 project which will extend the sewer line to French Avenue. He said that at the request of the Florida  
41 League of Cities and Volusia County, staff has submitted 3 fully engineered projects and that Phase 3  
42 for the water reuse project was included. It is anticipated that the third phase would be funded with the  
43 proposed infrastructure stimulus package the legislature will be considering and that would extend the  
44 sewer line to New York Avenue.

45  
46 Mr. Johnson said that the next step is to obtain tentative approval and then the contracts can be  
47 developed to move forward with the project.

48

1 Council Member Mahoney asked where the \$3.6 million to fund the project would come from. Mr.  
2 Johnson responded that the \$3.6 million is a “non-existent number” because the connection at Carpenter  
3 Avenue eliminates a line that was included in that number. Mr. Murray concurred and said that the  
4 amount is “well under \$1 million” and that the City would be “selling reuse at the expense of using  
5 potable water for irrigation purposes.” Mr. Murray called it a “win/win” situation for everyone.  
6 Mr. Murray said that he anticipated receiving commitments from FDOT within the next sixty days. He  
7 said that he would report back at that time. Mr. Johnson detailed the remaining costs as follows:  
8 partnering with DOT to run a line down Thorpe Avenue, materials, and installing a pumping station at  
9 Marshall Pond. Mr. Murray noted that perhaps the most important part of this project is that it will  
10 make it possible to bring sewer lines to 17-92. He said that lack of these liens has inhibited  
11 redevelopment in the area.

12  
13 **B. Sparkman Ridge - Revised- See Resolutions - 7-D**

14  
15 *Agenda item moved to Section 7-D Resolutions.*

16  
17 **C. Tel-Connect Settlement**

18  
19 Mr. Reischmann gave a brief history of the Tel-Connect litigation with the City. He said that Tel-  
20 Connect applied for and received a business tax receipt. The application misstated the type of business  
21 that would be conducted. The City took this establishment before the Code Enforcement Special Master  
22 who agreed with the City that this business was violating the City’s Land Development Code. A fine  
23 was imposed and Tel-Connect was advised to apply for a conditional use permit to bring them into  
24 compliance. Tel-Connect chose to file a law suit against the City. As directed by the Council, the City  
25 initiated a discussion with Tel-Connect to reach a procedural settlement. This settlement temporarily  
26 suspends the fines for a specified period of time in order to allow Tel-Connect to apply for a conditional  
27 use permit. It states that the City will process the application but it does not guarantee that it will be  
28 approved. If the Planning Commission approves the conditional use permit then Tel-Connect would  
29 cancel the law suit, however, they would still have to pay the fines that have been imposed.

30  
31 Council Member Mahoney questioned what would happen if Tel-Connect appealed a negative decision  
32 by the Planning Commission. Mr. Reischmann advised that Tel-Connect could continue with the  
33 litigation or appeal the Planning Commission’s decision to the City Council. He said staff is requesting  
34 Council authorization for the City Manager to sign the settlement agreement.

35  
36 **Vice Mayor Allebach moved that the City Council direct the City**  
37 **Manager to execute the settlement agreement on behalf of the City of**  
38 **Orange City, seconded by Council Member Mahoney.**

39  
40 Vice Mayor Allebach commented that the City does not have the resources to fight law suits in order to  
41 keep gambling out of the City. He stated it could take years to figure out if video gaming is considered  
42 gambling. That is why the City must wait on the courts that are already considering these matters.

43  
44 Council Member Sandford asked if there is a downside to this agreement. Mr. Reischmann responded  
45 that if the City does not do this now and the law suit proceeds, the judge is going to mandate that the  
46 parties go to mediation. Mr. Reischmann stated, “Let’s do that now rather than spend a lot of money in  
47 attorney fees.”

48

1                   **The motion passed with a 7/0 roll call vote of the Council.**

2  
3           **9.       NEW BUSINESS**

4  
5       Vice Mayor Allebach requested a discussion agenda item for the next meeting that addresses the affect  
6       the economy is having on the collection of sales taxes and the City's revenue projections for that budget  
7       line item. Mr. Murray advised that City revenue projections are about \$130,000 below budgeted  
8       projections but that the electric franchise fees should increase and offset that loss. He said that if the  
9       City were to loose all the State revenues, it would not severely affect the budget.

10  
11       Mayor Strickland requested more information about an animal control program that would include  
12       spaying and neutering. He noted that other municipalities have used this approach and it appears to be  
13       working. Council Member Sherrill agreed noting that the current service is lacking and needs  
14       investigation. Mr. Murray said that animal control is extremely expensive, but that staff would research  
15       the matter and bring suggestions back to the Council.

16  
17       As a point of order, Mayor Strickland advised that the New Business Section of the agenda is a new  
18       category added as a result of recent revisions to the *Council Rules & Procedures*. Its purpose is to  
19       introduce a topic for discussion at future meetings.

20  
21       Council Member Laputka suggested the topic of Pocket Parks be considered for a future discussion.

22  
23       Council Member Sherrill recommended future discussions on absenteeism noting that a Council  
24       Member should not be paid for a meeting that they did not attend.

25  
26           **10.     REPORTS**

27  
28                   **A. City Manager**

29  
30       Mr. Murray reported that as directed by Council, a meeting has been scheduled with Ms. Vivian  
31       Garfien, from FDEP, Allen Watts and Kelly Eger to discuss the problem of ground water contamination  
32       at the GEL site. Mr. Murray advised that proposed changes to the Personnel Policies will be distributed  
33       shortly. He recommended that a workshop be scheduled to discuss the matter. Mayor Strickland asked  
34       that the workshop be scheduled for sometime in February.

35  
36       Mr. Murray reported that the City had its second sinkhole as a result of Tropical Storm Fay under the  
37       Blue Springs storage building and its main office. He stated it is a very serious sinkhole that may lead  
38       to the condemnation of the entire front structure. The first sinkhole was on Industrial Drive and it did  
39       substantial damage to buildings at that location.

40  
41       Mr. Murray reported that the water tank at the South water plant was capped off today. He said that the  
42       plans for a pump house on Veteran's Memorial have been returned and that the construction should  
43       begin within the next two to three weeks.

44  
45       Angel Smith, Community Relations Coordinator came forward to give an update on the "Operation We  
46       Care Program." She stated it was a success and that photos were available for review. Ms. Smith said  
47       that the response from the contributors was excellent. Referring to a report distributed to Council (a  
48       copy of which is attached and becomes a permanent part of these minutes) Ms. Smith listed the

1 contributors. She reported that the News Journal was present for the packaging event and that the  
2 Beacon has requested copies of the photos for posting to the internet. Ms. Smith said that it is  
3 anticipated that about 350 individuals would receive the items. Over thirty boxes of various sizes were  
4 shipped. The boxes were packed differently this time and as a result the City spent less on postage. Ms.  
5 Smith thanked the Council for their support. She said that thank you letters will be sent to the  
6 individuals who provided their contact information. Mr. Murray remarked that he was surprised to see  
7 the people who do not live in the city who started their own drives and donated the goods to "Operation  
8 We Care." He said that it was great effort on a short time basis.

9  
10 Mr. Murray announced that the Christmas parade will be on Saturday, December 13<sup>th</sup>. The line up will  
11 begin at 9:00 a.m. on French Avenue. He said it will be a full day. He urged everyone to come and  
12 participate.

13  
14 B. Mayor/City Council

15  
16 Council Member Sherrill updated the Council on the WAV activities. He said that he provided Council  
17 with copies on the latest information about WAV. Council Member Sherrill said that the Water  
18 Management District has changed direction with regard to its irrigation requirements. He advised that a  
19 meeting was held today in Palatka and that he would copy Council when he has the information.

20  
21 Vice Mayor Allebach said that Votran and the MPO put together transit development design guidelines.  
22 He asked that staff review the guidelines and consider incorporating some of the suggestions into the  
23 City's land development guidelines. Vice Mayor Allebach said the meeting was upbeat due to the  
24 possibly of a stimulus package for infrastructure projects. He stated, "We may actually get something  
25 going."

26  
27 C. City Clerk

28  
29 Ms. Renner reminded Council about the dedication ceremony for the River Springs Middle school this  
30 Thursday at 9:30 a.m.

31  
32 D. City Attorney

33  
34 Mr. Reischmann said that the City holds Code Enforcement liens for property on Carpenter Street. The  
35 property is not homesteaded and there are no pending bank foreclosures. The owner has been through  
36 Code Enforcement twice and the Special Master has found this property in violation of two separate  
37 codes. Substantial fines are pending and accruing. Code Enforcement is considering initiating  
38 foreclosure however, that cannot happen without the Council's approval. Mr. Reischmann stated, "I am  
39 asking for the Council to decide whether you want to authorize your City attorney to initiate a  
40 foreclosure of two pending Code enforcement liens against 521 Carpenter Street, owned by a Raymond  
41 Gallahan." The code violations include discarded junk, inoperable motor vehicles, and grass and weed  
42 growth in excess of 12 inches. This matter has been going on since October, 2007. In response to a  
43 question from Mayor Strickland, Mr. Reischmann said that the fines are over \$6,000. Mr. Murray noted  
44 that if the owner does not comply with the Code, the City would have to incur the expenses of clearing  
45 up the property. Mayor Strickland said that he knows Mr. Gallahan personally and requested that he be  
46 allowed to speak with Mr. Gallahan before the Council takes action on the matter. He said that he  
47 would report back to the Council at the next meeting.

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**11. APPROVAL OF MINUTES**

**November 18, 2008 Regular Meeting  
November 8, 2008 Workshop Meeting**

**Vice Mayor Allebach moved to approve the minutes of the November 18, 2008 Regular Council Meeting and the November 8, 2008 Workshop Meeting, seconded by Council Member Laputka and passed by a unanimous 7/0 voice vote of the Council.**

**12. COUNCIL COMMENTS**

Council Member Mahoney wished everyone a Merry Christmas.

Council Member Laputka asked that everyone come to the parade and the Light Up on Saturday.

Mayor Strickland said that the monthly meeting of the southwest Volusia Mayors will take place in the City of Pierson tomorrow.

Council Member Abraham said that he has spoken with the City Clerk and suggested that the City host a special appreciation function for the volunteers. He said that Ms. Renner advised him that a function is being planned and will take place during Volunteer Week next year.

The City Council donated a gift basket to the City employees for the annual holiday luncheon on December 19<sup>th</sup>.

**ADJOURN**

There being no further business, Mayor Strickland adjourned the meeting at 10:15 p.m.

**RESPECTFULLY SUBMITTED:**

**APPROVED ON:**

Gloria Williams  
Deputy City Clerk

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