MINUTES OF THE REGULAR MEETING of the City Council of the City of Orange City, Florida, held on Tuesday, March 24, 2009 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City.

CALL TO ORDER

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

ROLL CALL

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

INVOCATION

The Invocation was given by Pastor Glenn Stewart, Faith Community Church, followed by the Pledge of Allegiance.

1. ABSENCES: No absences to consider

PRESENTATIONS: **Lindsay Roberts, WAV**

Postponed until April 14, 2009.

Presentation of Audit for FY 07/08

Rob Kimelman, Greene, Dycus & Co., P.A. came forward to present the Fiscal Year 2007-2008 Annual Audit Report. Using a power point presentation (a copy of which is attached and becomes a permanent part of these minutes) Mr. Kimelman gave an overview of the audit process. He said that Greene, Dycus issued an "unqualified" audit opinion for FY 2007-2008 which means the financial statements were prepared in accordance with Generally Accepted Accounting Principles (GAAP) and there were no exceptions or irregularities. The financial statements were submitted to the Government Finance Officers Association (GFOA) for their "Certificate of Achievement" award noting the City has received the award for the past seven years.

Mr. Kimelman began his presentation with a discussion of General Fund Revenues and Expenditures. He explained that the revenues and the expenditures have been depicted in two ways; one with one-time expenditures removed such as the former City Manager's separation payment. He said the property taxes and utility taxes are largest revenue source for the City with smaller percentages coming from licenses and permits, intergovernmental revenue, and other sources, which is consistent with prior years. He discussed the expenditures by type and function. He said the largest expense was for public safety, with smaller percentages expensed for general government, transportation, and culture and recreation line items. When categorized by type, personnel expenses are consistently the largest expense followed by capital outlay or other expenses. He pointed out that removing the separation payment for the former City Manger slightly reduces the personnel expenditures.

Mr. Kimelman said that excess revenues left after expenses are paid to the unreserved or undesignated fund which is a reserve fund to be used in the event there are cash needs in the future. At the end of FY 2007-2008 4.4 million was in the unreserved or undesignated fund. This fund has been growing for the last seven years. Overall, the General Fund has $4.8 million dollars in cash and cash equivalents accounts.

Council Member Sherrill questioned whether the large amount of cash in reserve was due to the unstable condition of the market. Mr. Kimelman responded that historically most of the City funds are in cash and cash equivalent accounts, which are the City's biggest asset other than capital assets. Due to the current economy, the City is not getting the higher interest rates that it would normally get. However, the City has the same "character" of assets.

Next, Mr. Kimelman discussed the City's "Enterprise Fund" or the Utility Company. Referring to a chart showing the revenue and expenses for the last four years, Mr. Kimelman said that the revenues consistently exceed the expenses. While there was a sizable increase in impact fees or capital contributions in 2007, he said due to a slowing economy impact fees did not increase in 2008. He reiterated that the decrease was a result of fewer capital contributions and not the operations of the water utility.

In response to a question from Council Member Laputka, Mr. Kimelman said that 8% of the Utility Company's revenue comes from impact fees and the percentage has decreased significantly from prior years. Overall the revenue for the Utility Company was down 13%. Noting this percentage includes impact fees, he suggested that if the impact fees were factored out, the gross total of the revenues would increase slightly.

Mr. Kimelman advised that expenses for the Utility were up 9%, from 2.4 million to 2.6 million. The biggest increase was in the repairs and maintenance category which includes storm debris cleanup. The personnel costs increased 11%, wastewater treatment remained the same, and water production increased slightly.

Mr. Kimelman stated the net assets or equity of the Enterprise Fund is $7.7 million. He said capital or net assets are part of the infrastructure of the Utility and represent the largest portion of the fund. Equity from capital assets cannot be used to fund repairs, maintenance or upgrades. While this does not leave the Utility much operational cash it is typical of how a Utility Company operates.

Referring to the Comprehensive Annual Finance Report (CAFR), Mr. Kimelman said that the Independent Auditor's Management Letter provides comments and recommendations. There are three levels of "findings", the most severe is "material weakness"; a mid level finding is called a deficiency; and a low level finding is called an operational improvement. He advised the deficiencies as noted in the audit are very "low level" in nature and none were "material" in nature. Council will have to decide how they wish to address them after considering the costs involved in implementation. Mr. Kimelman stated the audit recommendations are as follows:

1) <u>Fuel Dispensing System</u> - The automated fuel dispensing system was hit by lightening and was not being utilized for a period of time. Subsequently manual controls were put in place however there was a period of time where there was no recordkeeping. Staff's long-range goal to correct the issue is to investigate sharing fueling facilities with Votran.

Mr. Murray responded that an automated recording system was installed a few years ago requiring individuals to swipe a card to access the fuel dispensing system. The system was hit by lightning two years ago. The City installed a video camera with a log and since that time, there have been no discrepancies. The security tapes are available for review. Mr. Murray said the cost for a new system is $30K or more. The City has a verbal agreement with Votran to share its current location for refueling which will have an automated system. He expressed his concern that installing a new system at this time would not be frugal and recommended installing it once the sharing agreement is imminent. If the agreement with Votran does not work out, the City could consider putting in the automated fueling system at that time.

2) Fringe Benefits – Mr. Kimelman said the City must become compliant with the IRS fringe benefits ruling that the personal use of a vehicle, uniforms, phones, etc. are taxable benefits.

Mr. Murray responded that the IRS is requiring the City to tax employees for their personal use of City owned vehicles; City issued cell phones; and uniforms. He suggested that the City utilize a policy developed by another city to address the matter.

3) Documentation of accounting policies and procedures – Mr. Kimelman said the City has developed strong accounting practices. Although there is no requirement to implement, it is recommended that written policies be put into place to ensure consistency with the application of these accounting practices, noting that would provide more accountability and transparency.

In response to a question from Mayor Strickland, Mr. Kimelman said that templates of policies and procedures could be obtained from GFOA or other cities. Mayor Strickland confirmed that instituting accounting policies would be a matter of documenting what the City is already doing. Mr. Kimelman responded "yes." Mayor Strickland stated, "I personally think that's clearly going in the right direction for the City."

4) Capital assets – Mr. Kimelman said staff needs to develop formal policies for the management of the City's capital assets and present to Council for adoption. Templates that have the required documentation are available. In addition, an annual inventory must be performed. He stated these items need to be in place so that the City's assets can be effectively monitored.

Mr. Murray noted that policies for capital assets would be management policies that do not get adopted by Council. He said that staff recognizes the need and have implemented a bar code system to track assets thus far. The other issues would be implemented by the end of this year.

Mr. Kimelman concluded his presentation by stating that there are no significant audit findings and no difficulties encountered in performing the audit. He said the recommendations are for operational issues. Mr. Murray advised Council there is nothing in the auditor's comments that threaten the financial stability or organization of the City. Mr. Kimelman opened the floor to any questions.

Council Member Mahoney questioned the growth of the pension contributions to the FRS discussed on page 38 of the CAFR. He said while employee salaries had increased, the City's FRS contribution

percentage had not and hides the fact that liabilities exceed the assets with FRS. Mr. Kimelman concurred noting that the rates will be going up. He explained that in the past, FRS was able to rely on higher investment returns however with the current economy that is no longer the case. He said FRS has a fixed expense and must pay its retirees. As a result FRS will pass the cost onto its members by increasing the contribution percentage. He suggested that may result in a significant increase in the pension expense. Council Member Mahoney said that does not address the asset deficiency of FRS. He questioned if non-compensated absences such sick or vacation could be a factor. He noted that employees can "cash out" sick hours when they retire and asked if that lump sum was included in the final average salary compensation calculation. Christine Davis, Finance Director came forward and advised the lump sum is for wages earned. She said the City allows no more than 240 hours of vacation to accumulate suggesting that would cap the liability. A portion of the vacation hours would be eligible for pension benefits. Employees with a long tenure have higher salaries and the compensation would be based on the highest annual salary.

Council Member Mahoney expressed his concern that fringe benefits do not become a part of the salary calculation when an employee retires. Mr. Kimelman said fringe benefits are non-compensatory earnings or wages and are not included in the FRS calculations. Ms. Davis advised that employer provided vehicles and police officers uniforms are fringe benefits. Staff is still inquiring if cell phones are to be included. Ms. Davis expressed her belief that taxing fringe benefits will not increase the City's liability.

Council Member Mahoney noted an estimated liability for unfunded post-employment, pre-retiree Medicare health benefit had been included in the budget. Mr. Kimelman said that effective next year, GASB has issued a new governmental accounting standard for pronouncements that will require government agencies to estimate and allocate the costs associated with employees who may decide to retire early and who may choose to continue to participate in the city's health care plan through age 65. He said that it would be a matching principal. Council Member Mahoney expressed his opinion that a universal health care plan could introduce tax credits that would allow people to buy into health care plans and increase utilization.

Council Member Mahoney read from a comment in the audit report that stated, "Announcements from GASB adopted after November 30, 1989 are not implemented. He asked why the City chose not to implement the announcements and asked for examples. Mr. Kimelman responded that is a boilerplate statement, which applies to the Enterprise Fund and he did have an example this evening. Typically the Utility Company operates like a business and accrues its liabilities as if it is a for-profit business.

Council Member Mahoney questioned why the supplementary information requested by GASB is not included in the scope of the audit. Mr. Kimelman responded that the auditor reads the information and makes sure there is nothing contradictory included in the financial statements. There are certain items in the Management and Discussion Analysis that are not financial in nature.

In response to a question from Vice Mayor Allebach, Mr. Kimelman said that the City received the GFOA "Certificate of Achievement" for the last seven years. The Vice Mayor suggested the City had received this award despite the fact there are no accounting policies in place. Mr. Kimelman said the accounting policies are an internal operational issue and are not criteria for the receiving the "Certificate of Achievement" award.

Council Member Abraham thanked Mr. Kimelman for responding to his email and providing him with a copy of his comments from last year's audit. He noted that many of these comments were included as recommendations in this year's audit. He questioned why these comments were not included as recommendations in last year's audit. Mr. Kimelman noted that the issue of establishing accounting standards and procedures was not a deficiency last year. The matter was verbally discussed with staff, however, because no action was taken, the matter was presented as a formal recommendation in this year's audit.

Council Member Abraham noted the audit document mentions the Florida Statutes and the Auditor General's Rules and Regulations. He questioned the difference between the two and the benefits of both to the City. Mr. Kimelman said that the Auditor General's rules are more specific than the Florida Statutes. The Auditor General's rules provide suggestions on policy matters and are more detailed in scope than the State Statues. Both must be considered when conducting an audit.

Vice Mayor Allebach moved to accept the 2008 Comprehensive Annual Financial Report for fiscal year 2007-2008, seconded by Council Member Sherrill and passed by a 6/0 voice vote the Council.

2. CITIZEN COMMENTS:

David R. Durant, 415 Clark Street came forward and stated that he has lived in Orange City since 1997 and that he has always paid his bills, on time. He said that he is the owner of his property and questioned why the water bill is still invoiced in his mother's name when she has been dead for 10 years. He said staff told him that he must pay a deposit to put the account in his name. Mr. Durant suggested that a return envelope be included with the water bill. In conclusion, Mr. Durant commended Council for being "more connected to the community." Mayor Strickland asked that Mr. Murray contact Mr. Durant to resolve his issue.

Kenny Johnson, 687 N. Leavitt Avenue came forward and stated that the quality of his water is lacking. He was told it was okay to drink the water but the chlorine level seems to be too high and the water is frequently brown. With regard to the water increase, he expressed his opinion that "the quality should match the increase." Mr. Johnson said he wanted to bring the problem to Council's attention. Mayor Strickland advised that staff would look into the matter.

James W. Stevens, 910 S. Volusia Avenue came forward and stated that he has had issues with his water service, and that the water company has always been very helpful. He said that a lightning strike hit a water main on his property and the plumbing needed to be replaced. He said each floor of his apartment building has a separate hose in case of fire and he is paying a monthly fee even if it is not used. Mr. Stephens said that his water bill for 30 rental units increased to about $1,700 a month. He has had to reduce the rent to keep the apartments occupied. Mr. Stevens said that a water increase is going to be difficult to pay with the current rents being charged. As far as the Orange City Water Department, he stated, "I think they do an excellent job." He said that the Police Department has done an excellent job of cleaning up the neighborhood.

Janet Godfrey, 860 Navel Orange Drive came forward to speak about the proposed increase to the water and sewer services. She said that there are widows her neighborhood on fixed incomes who cannot afford any more increases on the water. She stated, "They cannot stand any more raises, between the electric company and telephone company. "We cannot stand another hike in the water."

Joseph Desaussure, 718 South Thorpe Avenue, came forward and thanked the City for its response to public safety. Mr. Desaussure stated that he wanted to inform everyone that that he and his partners want to organize a non-profit intergenerational boys and girls club/shelter for Orange City. A vision statement of the purpose of the club/shelter and a petition is circulating. The club/shelter would provide recreational activities; help to create jobs, house, clothe, and feed people with the help of partners, donors and people that live in the community. Mr. Desaussure concluded by stating, "Thank you everyone and again, my name is Joseph Desaussure and I will be running for City Council."

Al Blue, 447 N. Oak Avenue came forward and stated that a friend who owns a home in the City that has been vacant for two years just received a letter stating that her water would be turned off in 10 days if her water bill was not paid. He noted that she was invoiced $37for using 10,000 gallons of water. Mr. Blue said that he recently received a water bill for $16 for using 3,000 gallons of water. He remarked that he paid about half of what his friend paid and she used more water than he did. He suggested that water rates should be assessed on an escalating scale so that the more a person uses the more he/she should pay. He stated, "The more it costs, the less a person will use."

Henry B. Durica, 1310 E. Lansdowne Avenue came forward. Mr. Durica spoke against any increase in water rates.

3. CONSENT AGENDA: None at this time

4. ORDINANCES – FIRST READING:

A. ORDINANCE NO. 379: An ordinance of the City Council of the City of Orange City, Florida, amending the Orange City Code of Ordinances, Appendix A, Land Development Code, Chapter 5, Development Orders, Development Permits and Certificates of Occupancy, Section 5.5, Extension of Expiration Date; to establish procedures for a request for extension of a development order; containing a repealer provision, a severability clause and providing for an effective date.

Vice Mayor Allebach read the title of Ordinance No. 379 into the record.

Council Member Laputka moved to approve Ordinance No. 379 on first reading, seconded by Council Member Mahoney.

Jim Kerr, City Planner, came forward and said that this Ordinance will amend the City's Land Development Code (LDC) to allow the extension of development orders. Currently, a development order is good for twelve months and may be extended for an additional twelve months by the Development Services Director. There is no provision for any extension beyond that. The proposed change would give the City Council the authority to extend an order beyond the twelve months currently allowed. The additional extensions could be granted by the City Council in one-year increments for a maximum extension of five additional years. This would give the order the potential of seven years to commence. The new provision would apply to both preliminary and final subdivision plats, site plans, variances, and conditional uses. Mr. Kerr advised that staff and the Planning Commission recommend City Council approval of the proposed amendment.

Council Member Laputka asked what type of backlog would be affected by this amendment. Mr. Kerr responded that there are three subdivisions. Mr. Murray said that there is a total of eight projects.

In response to a question from Vice Mayor Allebach, Mr. Murray stated that the seven-year extension period may be "a little overkill," but he noted that Council still retains the option to stop the extensions at any time for any project.

Mayor Strickland advised that this amendment is brought forth in response to the downturn in the economy. He noted the large sums of money invested by Developers to get a project off the ground.

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

A. ORDINANCE NO. 382: An ordinance of the City Council of the City of Orange City, Florida; amending Chapter 2, Administration, Article I, In General, Section 2-3, City Manager-Powers and Duties, Subsection (d) to provide that the City Manager shall attend all meetings of the City Council as required by the City Charter; to eliminate Subsection (k) in its entirety; to eliminate Section 2-6, Limitation on use of or access to Fire Station areas of City Hall, in its entirety; providing for codification, conflicts, severability and effective date.

Vice Mayor Allebach read the title of Ordinance No. 382 into the record.

Council Member Laputka moved to approve Ordinance No. 382, seconded by Vice Mayor Allebach.

Mr. Reischmann recalled that Council had directed him to prepare this Ordinance for their consideration. He advised that the ordinance addresses areas of the code which are no longer relevant. He advised that the Ordinance had been revised to include a repealer provision for Sections 2.6 and 2.3 (k).

Mr. Reischmann noted changes to the code as follows: Section 2.3 (d) has been changed so that it agrees with the revised Charter; 2.3 (k) was revised; and 2.6 was eliminated since the fire department is no longer at City Hall, making this section irrelevant.

Council Member Mahoney said that he agrees with all of the changes with the exception of the one pertaining to responding to citizens comments. Council Member Mahoney felt that there should be some provision for that. He said that he did not prepare alternative language, but that he felt "the pendulum had swung too far." Council Member Abraham concurred and said that he felt there should be "clear-cut language" regarding the process for responding to citizen requests.

Ron Saylor, 361 Dixon Street came forward and suggested that the section should provide that the City Manager must respond in a reasonable amount of time not to exceed ten working days. He suggested that removing the provision would send a message to the citizens that Council does not listen to them. He said that if a requirement is not put in the ordinance, it would be reflected in his votes for Council in the next election. Mr. Saylor clarified that he was not complaining about Mr. Murray or Mr. Johnson as they had both addressed the concerns he brought forth at the last meeting. He said that in general, he has been getting a response to issues he raises. In conclusion, Mr. Saylor stated, "I want to see that section put back in with some appropriate wording."

Mr. Reischmann discussed the proposed change to this section, noting that the provision to respond within 48 hours to citizen concerns has been removed. He advised that if it is Council's desire, he can further amend the language and bring it back to the next meeting.

Mayor Strickland explained his concern regarding this provision by stating, "A toothless tiger is not very helpful." He noted that a new City Manager will be hired soon and suggested that this provision could be addressed in that contract. The Mayor noted that if it is in the code and the Manager does not follow it, there is nothing that can be done. He reiterated his feeling that if it is not enforceable, it should not be a part of the code. Council Member Mahoney responded that there is no guarantee that suitable language would be included in the contract and maintained that there should be some provision in the code. Mayor Strickland suggested that it is the responsibility of Council to ensure that a response from the City Manager to citizens' concerns is forthcoming.

Vice Mayor Allebach noted that Mr. Saylor did not receive a written response to his concerns at the last meeting within 48 hours, however, he did get a response that was very satisfactory. The Vice Mayor stated, "Right at this moment, Chester is in violation of a City ordinance. What penalty can we now impose upon our City Manager which is commensurate with a violation of a City ordinance?" Council Member Mahoney maintained that there should be some provision in the code regarding this matter. Mayor Strickland asked Council Member Mahoney to draft language for Council to consider at the next meeting. Council Member Mahoney responded that he would "with the support of the City Attorney."

Mr. Reischmann suggested that this matter be continued to the next meeting.

Vice Mayor Allebach moved to continue Ordinance No. 382 to the next regularly scheduled Council meeting, seconded by Council Member Laputka and passed by 5/1 roll call vote, with Mayor Strickland voting "no."

Mr. Reischmann said that he would work with Council Member Mahoney to draft a revision to Section 2.3 (k) for consideration at the next meeting.

Mayor Strickland recessed the meeting at 8:43 p.m., reconvening at 8:49 p.m.

A. PUBLIC HEARING/ORDINANCES – SECOND & FINAL READING: None at this time.

B. RESOLUTIONS:

A. RESOLUTION NO. 536-09: A resolution of the City Council of the City of Orange City, Florida, adopting a revised miscellaneous fee schedule for water and wastewater services provided by Orange City Utilities; providing for conflicts; providing for severability; and providing an effective date.

Vice Mayor Allebach read the title of Resolution No. 536-09 into the record.

Council Member Laputka moved to adopt Resolution No. 536-09, seconded by Vice Mayor Allebach.

Paul Johnson, Public Works Director, came forward and stated that the proposed resolution addresses a number of different things. He began by noting a minor language change under "meter tampering/lock cutting" in the form of making sure that people know that there will be a penalty for this activity. The other change is for the minimum amount to be corrected or refunded. Mr. Johnson explained that issuing a refund check for less than $2.50 is not cost effective, and likewise, to try to collect a debt for the same amount. A charge has been added for installation of a two-inch fire line. Finally, an alternative water fee has been added. He recalled that this issue had been discussed at a workshop last November.

Mr. Johnson advised that in the future, the maximum amount the City will be allowed to pump from the aquifer is 600,000 gallons per day. Mr. Murray said that the city currently pumps about 1.6 million gallons per day (mgd). He noted that the Water Management District has issued the City a new consumptive use permit (CUP) which states that by 2014, the maximum amount that can be pumped from the ground is 600,000 gallons per day. Mr. Murray advised that if commercial irrigation were stopped, 248,000 gallons per day could be saved but would still result in a shortage of 750,000 gallons per day.

Mr. Murray discussed the two options currently available for an alternative water source. One of these is the "Yankee Lake" project which is based in Seminole County. This plan proposes to pump water out of Lake Monroe. He advised that this project is scheduled to come online within five years. The other alternative is called the "Coquina Coast Desalination Plant" which is based in Flagler County. This project is not scheduled to come online for ten years. The mandate from the State is that an alternative source must be in place within five years. Mr. Murray explained that Orange City is the first City in West Volusia to receive a new CUP under the new regulations. He said that the Yankee Lake project is the "quickest and simplest alternative" for the City. Seminole County must receive notification by May 15th of the amount of water the City needs to draw from the project and that payment is due by October 1st for the City's share of the design costs. The cost will be $471,000 per million gallons of water to design and build the pick-up to draw the water from the lake. Projections of the City's water needs over the next twenty-five years are 2.9 million gallons. Mr. Murray explained that if the City does not buy into the initial design of the "pickup" it will never have access to the water. Once the plant is built, the City must commit to a certain volume of water per day, in the City's case it is 3 mgd. The City will be charged for that water whether it is used or not. The total cost for Orange City is estimated at $32 million which will have to be spread over 4,000 customers. These costs do not include the transmission lines.

Mr. Murray recalled that a workshop was held last November to discuss these issues and that it is now time for a decision. Initially, the City will be responsible to pay $500,000 per year. Potentially, a payment of $1.5 million could be due by October 2009. Mr. Murray explained that the City of Deltona opted to pay their share through a hike in the utility rate and they imposed a 17.5% increase in water rates per year for the next five years to fund the project. The proposed assessment will only be used for capital investment in the alternative supply fund. If the first payment is due in October, the City will be forced to borrow the money or do a bond issue. Mr. Murray advised that if the City declines to participate in the project, the State could void its comprehensive plan and impose a $10,000 per day fine until the issue is resolved. Mr. Murray stated, "This is a Central Florida issue. This is what will control all future growth forever and ever and ever." He said that Yankee Lake is only a twenty-five year solution, while Coquina Coast is a 100 year solution. However, the cost for the desalination plant will likely run about $100 million as opposed to $32 million for Yankee Lake.

Mr. Johnson noted that the City has a "tiered" rate structure which was implemented to encourage conservation. He said that initially, a flat fee of $8 to $10 per customer was discussed. It was decided that a mix of a flat fee or a percentage would be charged which would shift more of the burden to the heavy commercial users. Mr. Johnson stated that if the City eliminated "metered irrigation" for both commercial and residential, it could bring a reduction of about 300,000 gallons per day. He explained that in order to accomplish this, all outdoor irrigation would have to be eliminated. Mr. Murray noted that such restrictions would be a reduction of $300,000 in revenue to Orange City Utilities.

Mayor Strickland noted that the City's water system infrastructure is aging and deteriorating which has affected water quality. He expressed his opposition to both Yankee Lake and desalination and stated, "Maybe we need to go out of the water business." The Mayor further noted that Council has "an important decision to make and a relatively short time to make it." In response to a question from Mayor Strickland, Mr. Johnson advised that there would be some money in the proposed capital improvement fund for infrastructure improvements. He clarified that the $30 million as previously discussed is part of the City's "take or pay agreement." The $1.5 million represents up-front costs and the remaining money will be spent as the water is used. Water costs are currently estimated at $4 per 1000 gallons. Mr. Murray noted that figure does not include the distribution lines. He said that the cost of the water will be at least double the current rates and the distribution costs are unknown at this time. Mayor Strickland noted DeBary's stormwater issues and the expenses they are facing to correct that and said that Orange City is facing similar expenses, but they are for water supply lines.

Council Member Sherrill stated that this proposal is to "buy a seat at the table" and it will not guarantee anything. He noted that last year WAV paid $10,000 to Coquina for the right to buy water when it becomes available. Council Member Laputka noted that the City has "a five year mandate" which forces the issue. Mayor Strickland asked again whether the City is willing to consider getting out of the water business. Mr. Murray responded that the problems will remain no matter who owns the Utility and that the costs will be passed on to the consumer in any case. Council Member Sherrill advised that the Water Management District is contemplating regulation of people who have private wells as a water source.

Mr. Johnson recalled that the City is involved in a study with other West Volusia water providers to look for ways to reduce consumption, however, ultimately a supplemental source will be required. Mr. Murray said that the estimate for maximum consumption set by the City will determine future growth. Once demand cannot be met, no more construction will be allowed.

Al Blue, 447 N. Oak, came forward and suggested that the Volusia cities band together and tell the Water Management District that their demands cannot be met. Mr. Blue suggested that the city develop lakes to capture rainfall and regenerate the aquifer. He expressed his opposition to Yankee Lake because it is only good for twenty-five years. Mr. Blue recalled that New Smyrna was contemplating a desalination plant years ago and said it would have been nice if it had been done then. He suggested seeking additional options and he questioned how much water is lost due to the condition of the transmission lines.

Mayor Strickland noted that the city of Groveland is suing SJRWMD for allowing a private company to remove 400 mgd to be bottled and sold. The Mayor stated, "What they're doing is they're also fighting our battle in the town of Groveland and I just think we need to acknowledge that they're fighting our battle."

Council Member Laputka asked whether the capital improvement fund to replace transmission lines could be subsidized by the City rather than implementing rate increases. Mr. Murray responded that Council could spend the unencumbered fund balance as it sees fit. He said the citizens would be paying for it one way or the other. Mr. Murray reported that he and Mr. Johnson met at length last Friday with other cities in the County and it was decided that the group would "speak with one voice" and would demand an audience with SJRWMD that would be attended by the Water Management District's Board, the Volusia Mayors and City Managers. A joint letter to Seminole County is being composed letting them know that the Volusia cities can't meet their time tables and have great concerns with their lack of guarantees. He expressed his optimism that this could stall the process for nine months. He cautioned Council that if the fee is not implemented now, it is only going to go up significantly each year.

Hugh Strickland, 420 May St., came forward and noted that rainfall is efficiently used in other countries and suggested that the same could be done here. He said that rainfall produces more than three times the amount of water needed by the City. Mr. Strickland suggested that excess potable water from rainfall could be pumped back into the ground for future use. He said that he is not opposed to a fee for future water needs. In conclusion, Mr. Strickland stated, "I'm not sure there's going to be water in the river. I do think there will be rainfall every year."

Council Member Laputka noted that the Panama Canal is totally freshwater fed. Mr. Murray agreed that the potential for using stormwater exists and that it hadn't been totally explored. He noted again the time constraints and the fact that any option will require capital.

Mayor Strickland expressed his concern over raising the capital necessary to proceed. He said the proposed plan has the most minimal financial impact on Utility customers. He expressed his concern that it is "too little, too late." Mr. Johnson noted that the issue of meeting the stipulations in the City's Consumptive Use Permit (CUP) remains.

Council Member Mahoney said that the City is reacting to the SJRWMD 2014 timeline. He said that he does not support the Yankee Lake project, noting that it is a temporary solution. He suggested that the project will be "plagued with law suits." Council Member Mahoney expressed his concern about "the table we're trying to buy a seat at." He suggested a fee structure that would have a more severe impact on water used for irrigation. Finally, he suggested that government actions should be "counter-cyclical" and an increase should not be considered at this time. He noted the economic stimulus received by citizens and stated, "One government puts it in and another one takes it out." He stressed he feeling that the timing is wrong for this increase.

Mr. Murray noted that the City is required to adopt a water supply plan as part of its comprehensive plan. He said that the City had no option but the Yankee Lake project.

Mayor Strickland asked whether another workshop would be held to discuss this matter further. Mr. Murray responded in the affirmative, stating that the local governments believe they can have the requirements delayed. The Water Management District has not issued a CUP to Seminole County for the Yankee Lake project. He discussed the potential pitfalls associated with the new mandates, and stressed that at some point a decision will have to be made and urged that it be sooner rather than later.

Council Member Mahoney noted increasing unemployment rates and stated, "times are different now." He stressed that government should not exacerbate the current economic problems.

Mr. Johnson said that the $4 assessment was a result of a study that had been done by the Water Management District and that the District felt it is a viable number. Mr. Murray reiterated that the operating capital must come from somewhere. Council Member Mahoney responded that the money should come from the water customers and it should be proportional to their usage. He clarified that the funding should not come from the fund balance.

Council Member Sherrill noted the stormwater project planned for Mill Lake and advised that the SJRWMD wants to penalize the City by reducing the CUP by the amount of water taken out of Mill Lake. He suggested that the issue be dealt with now rather than later.

Vice Mayor Allebach noted that the City is involved in a group effort to challenge the findings of the study done by the Water Management District. He noted that it has only been in the recent past that cities have utilized retention ponds. He suggested that the best thing for the residents of Orange City is to maintain control of the City's water utility. Regarding the suggestion of the City subsidizing the water utility, Vice Mayor Allebach noted that a number of utility customers are not city residents and, therefore, don't pay city taxes. He stated, "I don't know if it's illegal, but it's not ethical to take those tax dollars and supplement somebody else's water usage." He clarified that the cost for water is not a "tax," rather it is a "usage fee." Vice Mayor Allebach stated, "This seven member panel has a fiduciary responsibility for the viability of the water company." He advised that the utility must be run like a "for-profit" company, and stressed the importance of having a capital reserve for the future of the company.

Council Member Abraham agreed with Council Member Mahoney that now is not the best time to raise the rates for the citizens. He asked what happened to the plans for a desalination plant. Mr. Johnson responded that it is still "in the works," but that it is ten years down the road and the mandate from SJRWMD is to have an alternative source in place within five years. Council Member Abraham suggested that the best solution is to negotiate with the Management District. He reiterated that he agrees with Council Member Mahoney's position.

Council Member Mahoney noted that the unemployment figures he spoke of previously does not take into consideration the people who have incurred a wage reduction. Council Member Mahoney stated, "I'm just looking at this relative to the magnitude of the economic stimulus that people received. The whole purpose of that stimulus and how our actions are counter to it."

Council Member Abraham suggested that the City hold a workshop to educate the public on this issue. Mayor Strickland noted that Mr. Murray indicated that would be taking place.

Roll call vote on Resolution No. 536-09 was 3/3 with Council Members Abraham, Mahoney and Laputka voting "no." Resolution No. 536-09 died due to a tie vote.

Mr. Reischmann advised that the Resolution could be tabled to a future date.

Council Member Abraham moved to table Resolution No. 536-09 to April 14, 2009. Motion died for lack of a second.

Mr. Johnson came forward and suggested that Council consider approving the fees in the Resolution with the exception of the alternative fee.

Vice Mayor Allebach moved to approve Resolution No. 536-09 without the alternative water source portion of the schedule, seconded by Council Member Laputka.

Council Member Mahoney noted that he would normally object to the imposition of an increase on water already used, however, since this increase applies only to fees he would not object.

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

B. RESOLUTION NO. 537-09: A resolution of the City Council of the City of Orange City, Florida urging the Volusia County School Board to name High School DDD "Orange City High School"; and providing for an effective date.

Vice Mayor Allebach read the title of Resolution No. 537-09 into the record.

Council Member Sherrill moved to adopt Resolution No. 537-09, seconded by Council Member Laputka.

Mayor Strickland explained that the resolution is to urge the School Board to name the new High School "Orange City High."

Vice Mayor Allebach noted that the City had worked very closely with the School Board during the design and construction process for the school and has provided assistance beyond that which was required. He encouraged everyone to support the Resolution. The Vice Mayor suggested that the Resolution be transmitted after adoption, and then a campaign should begin to question the present naming policy. Various approaches toward influencing the Board were discussed and Vice Mayor Allebach favored a post card campaign with cards that read "Where it is says it all…"

Resolution No. 537-09 passed by unanimous 6/0 roll call vote of the Council.

C. DISCUSSION AND ACTION:

A. Discussion on Appointment to Vacancy in Seat #5 on the Council

Mayor Strickland suggested that each Council Member share their thoughts as to how the appointment process should proceed. He thanked the individuals who submitted letters of interest and expressed his hope that this would be a positive experience for them.

Vice Mayor Allebach said that he would like additional time to talk with each of the applicants before making a decision. He requested that a special meeting be held.

Council Member Abraham also spoke in support of a special meeting to make the appointment. He noted that the City Clerk suggested possible dates for the meeting. He expressed that each Council Member should interview the candidates.

Council Members Sherrill and Laputka agreed with Vice Mayor Allebach and Council Member Abraham.

Mayor Strickland asked Council what process they would like to use at the special meeting.

The City Clerk explained that each Council Member could conduct individual interviews with the candidates or telephone interviews would also be an option. She noted that a group interview would also be an option, however, that would have to take place during the special meeting prior to making a decision.

Vice Mayor Allebach said that he would prefer an informal interview process. He advised that voting must take place in the public meeting.

Council Member Mahoney said that he has spoken with three of the four candidates and that he was still undecided.

Mayor Strickland asked whether the candidates should be available at the special meeting to answer questions.

Ms. Renner suggested that she could prepare a written ballot for the meeting. Mr. Reischmann advised that the City of Palm Coast had recently undergone this process. They used a ballot with each candidate's name on it and each Council Member indicated their choice. He noted that the Charter requires a majority, or four votes, to make the appointment. If there is no clear choice after the first round, the votes can continue by narrowing it down to those candidates with top votes received. Throughout this process, discussion can take place.

It was the consensus of Council to use the process suggested by Mr. Reischmann.

It was the consensus of Council to hold a special meeting on Tuesday, March 31st at 7:00 p.m. to make the appointment to Seat #5.

Mayor Strickland recognized the candidates who were present in the audience.

B. Discussion on Role of Custodian of Records

Due to the lateness of the hour, Council Member Abraham requested that this item be continued.

D. NEW BUSINESS:

Vice Mayor Allebach requested that the alternate water source capital improvement funding fee be returned to Council for action on April 14, 2009. Council Member Mahoney suggested it wait until the last meeting in April to provide ample time for the new Council Member to become familiar with the issue.

It was the consensus of Council to address the alternative water supply fee at the April 28, 2009 meeting.

E. REPORTS

a. City Manager

Mr. Murray reiterated that he is meeting with the other Volusia cities regarding the alternative water source issue. A meeting is being planned between the Managers, Mayors and officials at the Water Management District. Mr. Murray advised that he would request a workshop after that meeting takes place.

b. Mayor and Council

Council Member Sherrill noted that he provided Council with copies of the minutes of the last WAV meeting, therefore, he would not make a verbal report. Lindsay Roberts, WAV Executive Director, will be present at the April 14th meeting. She will be discussing a new county-wide conservation ordinance.

Vice Mayor Allebach said that the MPO voted today on the stimulus projects. He said that the general consensus of board members was if the money can be spent fast enough, there may be an opportunity to get more. None of the proposed projects are on the west side of the County. A discussion took place regarding the fact that staff members attending the TCC meetings are not keeping their elected officials informed. He commended Bob Storke, the City's representative for the reports he provides after each task force meeting he attends. The Vice Mayor noted that "school safety studies" take 3-5 years to decide whether or not a sidewalk can be installed. He said that these studies are required in order to receive federal reimbursement.

Mayor Strickland reported on the VCOG meeting. He said that Dr. Smith of the Volusia County School Board was in attendance at a special workshop to discuss consolidation of services. The fire fighter's union was represented at the meeting. Anticipated cuts for schools went from $60 million to $85-$125 million for Volusia County. The amount anticipated from stimulus funding is only $8 to $10 million. Purchasing was one of the issues discussed for potential consolidation. The Volusia County Council has chosen the school system as their legislative priority. A bus is going from Deland on April 1st to lobby the legislature on this issue.

c. City Clerk

The City Clerk had no report.

d. City Attorney

Mr. Reischmann reported that as directed at the last Council meeting he reviewed Section 2.7 of the Code and sent a letter to Council about his findings. He stated that he needed further direction on the best way to proceed. Mayor Strickland suggested that the matter be discussed at the next Council meeting. Mr. Reischmann reported that city and county attorneys will be meeting on Thursday to discuss issues with the Volusia Growth Management Commission (VGMC).

5. APPROVAL OF MINTUES February 18, 2009 Special Meeting
March 10, 2009 Regular Meeting

Council Member Mahoney moved to approve the minutes of the February 18, 2009 Special Meeting, seconded by Vice Mayor Allebach and passed by a unanimous 6/0 voice vote of the Council.

Council Member Mahoney moved to approve the minutes of the March 10, 2009 Regular Council Meeting, seconded by Vice Mayor Allebach and passed by a unanimous 6/0 voice vote of the Council.

6. COUNCIL COMMENTS:

Council had no further comments.

7. ADJOURN:

There being no further business, Mayor Strickland adjourned the meeting at 10:26 p.m.

RESPECTFULLY SUBMITTED: **APPROVED ON:**

Gloria Williams, CMC
Deputy City Clerk April 14, 2009