

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,
2 Florida, held on Tuesday, July 28, 2009 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue,
3 Orange City.

4
5 **CALL TO ORDER**

6
7 The Meeting was called to order at 7:00 p.m. by Mayor 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, Paul Rasch, 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 Beverly Richardson, Chaplain, Halifax Health-Hospice of Flagler,
18 followed by the Pledge of Allegiance.
19

20 **1. ABSENCES:** Shall the absence of Jim Mahoney on July 14, 2009 be excused?
21

22 **Council Member Sherrill moved that Council Member Mahoney's**
23 **absence from the July 14, 2009 Regular Council meeting be excused,**
24 **seconded by Council Member Laputka, motion passed with a unanimous**
25 **voice vote of the Council.**
26

27 Council Member Mahoney said that he was on vacation and was not able to attend the July 14, 2009
28 meeting.
29

30 **2. PRESENTATIONS:**

31
32 Mayor Strickland advised there was no presentation on the agenda this evening however, he had
33 correspondence from the City of South Daytona that he would like to present.
34

35 **It was the consensus of the Council that Mayor Strickland proceed.**
36

37 Mayor Strickland read correspondence from Mayor Blaine O'Neal, South Daytona, urging
38 municipalities to join their efforts in opposing the proposed 30 percent rate increase Florida Power &
39 Light requested from the Public Service Commission. He said the City of South Daytona provided a
40 copy of a resolution recently adopted that detailed their concerns and he suggested Orange City
41 consider a similar resolution for the next agenda. Mayor Strickland asked that everyone contact the
42 Public Service Commission to express his or her feelings of "outrage" regarding the matter.
43

44 **3. CITIZEN COMMENTS:**
45

1 Henry Durica, 1510 E. Lansdowne, came forward and distributed a statement from Al Blue, (a copy
2 of which is attached and becomes a part of these minutes). Mr. Durica read the statement on behalf
3 of Mr. Blue, which stated Mr. Blue's opinion that vacant homes should not be billed for garbage
4 service. Mr. Blue pointed out that rather than receiving a 10% franchise fee, the City is now
5 subsidizing the garbage service. He suggested that the City contest the billing of vacant dwellings
6 and seasonal residents.
7

8 Mr. Durica said that he supports ROW being maintained by the property owner. He cited a few
9 commercial areas in the City that are "eyesores." Mr. Durica questioned how long the drainage in
10 front of MACO would remain. Mr. Murray explained the State installed the pipes during the
11 hurricanes of 2004 to transfer water and prevent flooding in the Royal Oaks area. The City plans to
12 collaborate with private developers to purchase Miller Lake and the surrounding properties to make
13 it a retention pond. Noting that the area continues to flood, he said he did not know the answer at
14 this time. Mr. Durica asked for a status of the repair of the sidewalk on Saxon Blvd. Mr. Murray
15 responded that the County received funding from FEMA to repair the sidewalk. Staff expressed
16 their concerns that the damage was done a year ago and the roads need to be repaired. As recently as
17 last week, the County gave assurances that the notice to proceed had been given. Ms. Davis,
18 Finance Director noted she observed that work had begun in front of the hospital. Mr. Durica said
19 that he is aware that is a County road, but that it is an "eyesore" for visitors to Orange City.
20

21 Gina Holmes, 670 Placid Run Road, came forward and said she is representing Blue Springs Villas
22 Homeowner's Association. She expressed concerns over the additional fees being charged for
23 alternative water issues and stated that she would like to be on the Alternative Water Committee.
24

25 **4. CONSENT AGENDA:** None at this time
26

27 **5. ORDINANCES – FIRST READING:**
28

29 **A. ORDINANCE NO. 399:** An ordinance of the City of Orange City, Florida,
30 annexing the Burns property into the corporate limits of the City of Orange
31 City, Florida; said property being generally located on the north side of Birch
32 Avenue, approximately 250 feet west of South Volusia Avenue, containing
33 approximately 0.31 acres; in accordance with the voluntary annexation
34 provisions of Florida Statute 171.044; redefining the boundaries of the City of
35 Orange City by amending the appropriate sections of the code of ordinances;
36 containing a repealer provision, a severability clause and providing for an
37 effective date.
38

39 Vice Mayor Allebach read the title of Ordinance No. 399 into the record.
40

41 **Council Member Laputka moved to adopt Ordinance No. 399 on first**
42 **reading, seconded by Council Member Mahoney.**
43

44 Jim Kerr, City Planner, came forward and noted this property is contiguous and meets the State
45 criteria for annexations and does not create an enclave. Staff recommends the property be annexed

1 into the City limits. Referring to a PowerPoint presentation (a copy of which is attached and
2 becomes a permanent part of these minutes) he noted the location of the property.
3

4 **Motion passed by a 7/0 roll call vote of the Council.**
5

- 6 **B. ORDINANCE NO. 400:** An ordinance of the City of Orange City, Florida,
7 annexing the Cateriny property into the corporate limits of the City of Orange
8 City, Florida; said property being generally located on the north side of West
9 Rhode Island Avenue, approximately 550 feet west of South Volusia Avenue,
10 containing approximately 0.34 acres; in accordance with the voluntary
11 annexation provisions of Florida Statute 171.044; redefining the boundaries of
12 the City of Orange City by amending the appropriate sections of the code of
13 ordinances; containing a repealer provision, a severability clause and providing
14 for an effective date.
15

16 Vice Mayor Allebach read the title of Ordinance No. 400 into the record.
17

18 **Council Member Laputka moved to adopt Ordinance No. 400 on first**
19 **reading, seconded by Council Member Mahoney.**
20

21 Mr. Kerr stated this property is contiguous, meets the State criteria for annexation and does not
22 create an enclave. Staff recommends that it be annexed into the City limits. Mr. Kerr noted the
23 location of the property on an aerial map. It contains a small building currently being used as a day
24 care facility. Mr. Murray noted that once the entire area is annexed the zoning will become CG-2.
25

26 **Motion passed by a 7/0 roll call vote of the Council.**
27

- 28 **C. ORDINANCE NO. 401:** An ordinance of the City of Orange City, Florida,
29 annexing the Ariel Ministries property into the corporate limits of the City of
30 Orange City, Florida; said property being generally located on the north side
31 of East Graves Avenue, approximately 300 feet west of Monastery Road,
32 containing approximately 4.86 acres; in accordance with the voluntary
33 annexation provisions of Florida Statute 171.044; redefining the boundaries of
34 the City of Orange City by amending the appropriate sections of the code of
35 ordinances; containing a repealer provision, a severability clause and
36 providing for an effective date.
37

38 Vice Mayor Allebach read the title of Ordinance No. 401 into the record.
39

40 **Council Member Mahoney moved to adopt Ordinance No. 401 on first**
41 **reading, seconded by Council Member Laputka.**
42

43 Mr. Kerr noted that the property is contiguous, meets the State criteria for annexation and does not
44 create an enclave. Staff recommends Council approval of the request for annexation. He pointed
45 out the location of the Ariel Ministries property, noting it is a church facility. In response to a

1 question from Mr. Murray, Mr. Kerr said the property extends to the lake which is within the city
2 limits.

3
4 **Motion passed by a 7/0 roll call vote of the Council.**

- 5
6 **D. ORDINANCE NO. 402:** An ordinance of the City Council of the City of
7 Orange City, Florida approving an agreement with the Florida Public Utilities
8 Company, its Successors and Assigns relating to and supplementing, a non-
9 exclusive artificial, natural, and/or mixed gas franchise to use the public rights
10 of way of the City of Orange City, Florida; making findings; providing for
11 non-codification, conflicts, severability and effective date; and repealing prior
12 ordinance.

13
14 Vice Mayor Allebach read the title of Ordinance No. 402 into the record.

15
16 **Council Member Sherrill moved to adopt Ordinance No. 402 on first**
17 **reading, seconded by Council Member Laputka.**

18
19 Mr. Reischmann advised that Ordinance No. 402 is a “Most Favored Nation Agreement” that is
20 usually contained within a franchise agreement, but Florida Public Utilities (FPU) requested that it
21 be provided separately. This ordinance together with the Ordinance No. 396 adopting a franchise
22 agreement (approved on first reading at the last meeting) must be adopted together. He explained
23 that in the event FPU enters into a franchise agreement with another municipality for an amount
24 greater amount than the six percent it has with Orange City, the City could then automatically amend
25 its franchise agreement with FPU to the greater amount. He recommended that Council favorably
26 consider this matter.

27
28 **Motion passed by a 7/0 roll call vote of the Council.**

29
30 **6. PUBLIC HEARING/ORDINANCES – SECOND & FINAL READING:**

- 31
32 **A. ORDINANCE NO. 394:** An ordinance of the City of Orange City, Florida,
33 amending Chapter 5 — Building, Housing and Structural Requirements — of
34 the Code of Ordinances of the City of Orange City, containing a severability
35 clause, a repealer provision, and providing for an effective date.

36
37 Vice Mayor Allebach read the title of Ordinance No. 394 into the record.

38
39 **Council Member Mahoney moved to adopt Ordinance No. 394 on second and**
40 **final reading, seconded by Council Member Rasch.**

41
42 Mayor Strickland opened the public hearing by asking if anyone wanted to speak for or against the
43 proposed ordinance.

44
45 Elaine Wilson, Senior Planning Analyst came forward and noted the purpose of this ordinance is to
46 bring the City’s Code of Ordinances into compliance with the current Florida State Building Code.

1 The City's code had not been updated since 2002 while the State adopted its latest revision in 2007.
2 Ms. Wilson explained that this is a standard model ordinance from the Building Officials
3 Association of Florida and is used by various municipalities around the State. She noted that Tom
4 Forbes, City Building Official, was present to answer any questions.

5
6 Mayor Strickland said that while he understands the intent of the ordinance, he had concerns with
7 the language. He said that it appears a property owner must pay a permit fee for every repair or
8 addition to their home. He asked for reassurance it is not the intent of the City to use this ordinance
9 for "revenue enhancement." Mr. Forbes came forward and responded that it appears much of the
10 confusion could be centered around the term "equipment." He read the definition of the term
11 "equipment" from the Florida Building Code, which states, "All piping ducts, vents, control devices
12 and other components of systems, other than appliances, that are permanently installed and
13 integrated to provide control of environmental conditions for buildings. This definition shall also
14 include systems specifically regulated by this Code." Mr. Forbes provided some examples of repairs
15 that would not require a permit such as replacing a part of an air conditioner, dishwasher, or water
16 heater. However, if the repair to this type of equipment required removal and replacement with a
17 new unit or if the appliance is moved from one location to another requiring rerouting of pipes or
18 electrical circuits, that would require a permit. Mr. Forbes noted this ordinance does not add new
19 permitting requirements. It just brings the City into compliance with State code. In response to a
20 question from Mayor Strickland, Mr. Forbes noted there is not a list of the specific items that would
21 require a permit. Mr. Forbes referred to the definition of "equipment" and stated that if the repair
22 involves a permanent change to the structure of the building, a permit is required.

23
24 Council Member Sherrill questioned whether it makes a difference if a homeowner does the work
25 himself. Mr. Forbes responded that it does not. He reiterated that the definition of the word
26 "equipment" in the code is what clarifies when a permit is required. In response to a question from
27 Council Member Rasch, Mr. Forbes explained why a permit is needed for the change out of an air
28 conditioning unit.

29
30 Hugh Strickland, 420 May Street, came forward and stated the statute calls for the appointment of a
31 building official and the creation of a department to enforce this Section. He asked whether
32 additional staff would be hired. Mr. Murray responded that existing staff would perform that
33 function. Next, Mr. Strickland noted the statute could be interpreted to mean the replacement of all
34 equipment requires a permit. Mr. Forbes disagreed, noting the State definition of equipment. Mr.
35 Strickland asked what would happen if the State changed the definition. Mr. Forbes advised that the
36 State building code would have to be revised. The next revision is planned for 2011. Mr. Strickland
37 stated, "So there is no guarantee to the citizens by adopting this, that everything won't be permitted
38 in the future in order to raise revenue and keep officials hired." Mr. Strickland further asked, "The
39 question I'm asking is, is there or is there not any guarantee that the citizens can keep the right to do
40 a repair in their own home without a permit?" Mr. Murray responded, "He is not prepared to address
41 what is going to happen by a legislative body in the future, Mr. Strickland, its speculation." Mr.
42 Strickland stated, "So when you adopt this, there is no stipulation that anybody's rights are
43 protected."

44
45 William Crippen, 325 N. Volusia, came forward and questioned how permits for replacement of
46 equipment due to emergency repairs would work when the repair takes place after regular business

1 hours and a permit could not be obtained. Mr. Forbes responded that the permit could be obtained
2 after the fact during regular business hours. Mr. Crippen noted that the State could track permits by
3 requiring people to give their name and driver's license when they purchase an appliance. He stated,
4 "We don't know what's going to happen in the future."
5

6 Vice Mayor Allebach noted that consumers may want assistance from a government agency if they
7 have a problem with a contractor and without any documentation, they would not be able to get it.
8 Mr. Crippen maintained that some people are concerned that this is an infringement on their personal
9 rights as a homeowner.
10

11 Mayor Strickland asked Mr. Reischmann if there is a state statute which protects cities from liability
12 when entering a citizen's home. Mr. Reischmann responded that local governments are provided
13 with sovereign immunity by statute. He stated his understanding that the requirements of this
14 ordinance are not new, they were required under the old code. He advised that the state of Florida
15 mandates uniformity in its building codes and, therefore, requires local governments to adopt the
16 standard building code.
17

18 Council Member Rasch questioned what would happen if the City refused to adopt the standard
19 code. Mr. Murray responded that the State would stop the City from any further construction by
20 canceling its comprehensive plan and mandating that a Building Official be brought in from another
21 government agency.
22

23 There being no further requests to speak, Mayor Strickland closed the public hearing
24

25 **Motion passed by a 7/0 roll call vote of the Council.**
26

27 **7. RESOLUTIONS:**
28

- 29 **A. RESOLUTION NO. 545-09:** A resolution of the City Council of the City of
30 Orange City, Florida, adopting a revised fee schedule Development Review
31 by the Technical Review Committee; providing for conflicts; providing for
32 severability; and providing an effective date.
33

34 Vice Mayor Allebach read the title of Resolution No. 545-09 into the record.
35

36 **Council Member Laputka moved to approve Resolution No. 545-09,**
37 **seconded by Council Member Mahoney.**
38

39 Ms. Wilson came forward and stated that the intent of this ordinance is not to create additional
40 revenue, it is meant to defray costs so that the City can break even on services provided relating to
41 development review. She advised Council that lengthy research had been done to identify the actual
42 costs associated with this service. Ms. Wilson noted that Orange City charges less than neighbor
43 cities charge.
44

1 Council Member Laputka cautioned that the City not “cross the line” and “price itself right out of it.”
2 Mr. Murray responded that the City is very conscious of that aspect. He advised that Lake County
3 charges an immediate fee of \$15,000 to review a PUD no matter what the size of the project.
4

5 Hugh Strickland, 420 May Street, came forward and expressed his concern that the increased fees
6 will discourage development. He said that the word on the street is that it costs more to develop in
7 Orange City than in any other place. He stated, “Well, that’s not competitive and we’re going up.”
8

9 **Motion passed by a 6/1 roll call vote of the Council with Mayor**
10 **Strickland voting “no.”**

- 11
12 **B. RESOLUTION NO. 546-09:** A resolution of the City Council of the City of
13 Orange City, Florida, adopting a revised fee schedule for building permit fees;
14 providing for conflicts; providing for severability; and providing an effective
15 date.
16

17 Vice Mayor Allebach read the title of Resolution No. 546-09 into the record.
18

19 **Council Member Mahoney moved to approve Resolution No. 546-09,**
20 **seconded by Council Member Rasch.**
21

22 Ms. Wilson advised that the proposed fees for this item were developed in conjunction with
23 Independent Inspections. She reiterated that the purpose of this increase is to help the City cover its
24 costs and “break even.” Mr. Murray noted that the city contracted with Independent Inspections for
25 building inspection services in 2002 and that there had not been a rate adjustment in these fees since
26 then.
27

28 Mr. Forbes pointed out that the State now requires more inspections for each type of project, citing
29 the example of a swimming pool which went from three required inspections to nine.
30

31 Council Member Mahoney noted that the intent of these fees is for those who are actually doing the
32 building to pay for the costs and not for the existing taxpayers to subsidize those costs. Mr. Forbes
33 characterized the fees as “user fees.”
34

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

- 38 **C. RESOLUTION NO. 552-09:** A resolution of the City Council of the City of
39 Orange City, Florida, adopting a proposed millage rate for the 2009-1010
40 Fiscal Year; establishing the Date, Time, and Place for a Public Hearing on
41 the proposed millage rate and the tentative budget; directing communication;
42 expressing legislative intent; repealing all resolutions in conflict herewith and
43 providing for an effective date.
44

45 Vice Mayor Allebach read the title of Resolution No. 552-09 into the record.
46

1 **Council Member Sherrill moved to approve Resolution No. 552-09,**
2 **seconded by Council Member Mahoney.**
3

4 Mr. Murray advised that this is “the first step” in the budget process. He noted that once the
5 tentative rate is adopted, it can be reduced, but it cannot be increased. He advised that the budget
6 and budget message would be released on Friday. He said that the tentative millage rate is higher
7 than the rate he will be proposing to support the budget. Mr. Murray said that the Council may wish
8 to add to the budget and that the recommended tentative rate would accommodate that. In response
9 to a question from the Mayor, Mr. Murray stated that the proposed tentative millage rate is 6.049,
10 however, he reiterated that the actual proposed rate used to prepare the budget is less.
11

12 Hugh Strickland, 420 May Street, came forward and advised that he read the information in front of
13 Council and stated, “I just want to say that a 34% increase on homeowners who will get a 3-4%
14 increase on their taxable value is a lot.” Mr. Strickland noted that property values have fallen, but
15 because of “Save Our Homes,” many home owners will find that their taxable value will go up
16 3-4%. Those same people will then be taxed at a higher rate. He stated, “If you want to have some
17 flexibility, go ahead and have it. But, you’ll have it at the expense of the community.”
18

19 Council Member Abraham stated that he did not support the proposed rate of 6.049, but expressed
20 his understanding that it is tentative. He said that he asked questions of the City Manager and
21 Finance Director, but didn’t receive a response “because they probably didn’t have all the
22 information at this time.” Council Member Abraham asked what the implication would be if
23 Council didn’t adopt the tentative millage rate at this time. Mr. Reischmann explained that a
24 majority vote is required to approve a rate up to the adjusted rolled back rate. A two-thirds vote is
25 needed to approve a millage rate up to 10% above the adjusted rolled back rate. A unanimous vote
26 is required for any increase above 10%. He advised that the proposed rate requires a two-thirds vote
27 (5 of 7) for approval.
28

29 Council Member Mahoney stated, “It would be the implementation of the flexibility that would be at
30 the expense of the citizenry, not the adoption of this resolution.”
31

32 **Motion passed by a 6/1 roll call vote of the Council with Council**
33 **Member Abraham voting “no.”**
34

35 Ms. Renner noted that the date for the second public hearing on the budget and millage was
36 scheduled to take place during the second regular meeting of September 22nd, however, that meeting
37 must be rescheduled because it falls on election day. She suggested having the meeting on
38 September 23rd or 24th.
39

40 **It was the consensus of Council to direct the City Clerk to prepare a**
41 **resolution rescheduling the second regular meeting of September for**
42 **Wednesday, September 23rd.**
43

- 44 **D. RESOLUTION NO. 553-09:** A resolution of the City of Orange City,
45 Florida, relating to the collection and disposal of solid waste in the
46 incorporated area of Orange City, Florida; establishing the estimated

1 assessment rate for solid waste service assessments against assessed property
2 located within the incorporated area of Orange City, Florida, for the Fiscal
3 Year beginning October 1, 2009; directing the preparation of an updated
4 assessment roll; authorizing a public hearing and directing the provision of
5 notice thereof; and providing an effective date.
6

7 Vice Mayor Allebach read the title of Resolution No. 553-09 into the record.
8

9 **Council Member Laputka moved to adopt Resolution No. 553-09,**
10 **seconded by Council Member Mahoney.**
11

12 Christine Davis, Finance Director, came forward and stated that this resolution is required by State
13 Statute to update the solid waste tax roll annually. She advised that this is the third year this
14 assessment has been proposed. The rate remains the same as last year at \$259.
15

16 Ms. Davis discussed the schedule for adoption of the assessment, noting that an ad will run on
17 August 18th and any new homes not on the tax roll last year will receive a letter. The final
18 assessment roll will be adopted on September 8th and the tax roll will be certified to the Property
19 Appraiser's office by September 15th.
20

21 Council Member Mahoney noted that implementation of the assessment process is required by the
22 City's contract. He further noted that the contract is not up for renegotiation until
23 December 31, 2011.
24

25 **Motion passed by a 6/1 roll call vote of the Council with Mayor**
26 **Strickland voting "no".**
27

- 28 **E. RESOLUTION NO. 554-09:** A resolution of the City Council of the City of
29 Orange City, Florida, adopting the Volusia County Local Mitigation Strategy;
30 providing for conflicts; providing for severability; and providing an effective
31 date.
32

33 Vice Mayor Allebach read the title of Resolution No. 554-09 into the record.
34

35 **Council Member Mahoney moved to approve Resolution No. 554-09,**
36 **seconded by Council Member Rasch.**
37

38 Paul Johnson, Public Works Director came forward and stated that the Local Mitigation Strategy is a
39 function of the Hazard Mitigation Grant Program which is administered through FEMA. Mr.
40 Johnson advised that the local county-wide agency meets on "a very regular basis" to discuss ways
41 to mitigate hazards from storms. Funding has been received from this program in the past for such
42 things as a pump station at Industrial Park. He said that about 10% of funds paid out for disaster
43 recovery is made available to mitigate a repeat of those problems in the future. Mr. Johnson said
44 that the City is currently ranked fairly high on two projects; the flooding at Royal Oaks center and a
45 project to repair road damages in Fawn Ridge subdivision. He explained that FEMA requires that a

1 strategy which is approved by all the municipalities be in place and this item fulfills that
2 requirement.

3
4 Mr. Johnson discussed two other projects in development as joint ventures: an expansion of a
5 retention pond behind Big Lots and the recharge area near Miller Lake which was discussed
6 previously. Mr. Murray stated that the City offered its share of the mitigation funding to purchase
7 land needed for this project. Mr. Johnson said that the property behind Big Lots is needed to manage
8 the flows coming out of the Royal Oaks center.

9
10 Vice Mayor Allebach noted that when the retention area at Big Lots was built, DOT “messed up the
11 flow” which made them part of the problem. The Vice Mayor stated, “Now they’re finally waking
12 up to be part of the solution I think.” Mr. Johnson said that DOT is “very much in favor” of the
13 proposed projects. Mr. Murray expressed his optimism regarding this joint project.

14
15 **Motion passed by a 7/0 roll call vote of the Council.**

16
17 **F. RESOLUTION NO. 555-09:** A resolution of the City Council of the City of
18 Orange City, Florida, supporting legislation to require that all elected officials
19 operate under the same Sunshine Laws; and providing for an effective date.

20

21 Vice Mayor Allebach read the title of Resolution No. 555-09 into the record.

22

23 **Vice Mayor Allebach moved to approve Resolution No. 555-09,**
24 **seconded by Council Member Rasch.**

25

26 Council Member Abraham questioned why after nearly 100 years, the Sunshine Laws in Florida
27 need to be changed. He stated, “I’m sure there will be two groups of attorneys fighting for this
28 change or no change, and I’ll be on one side.”

29

30 Vice Mayor Allebach said that the reason for the Resolution is to bring attention to the fact that
31 bodies such as the Council are required to do everything in public while in Tallahassee, the State
32 Legislature is allowed to make “secret deals” that are hidden from the public.

33

34 Council Member Abraham asked the City Attorney if any other state has sunshine laws such as
35 Florida’s, but that include the State officials. Mr. Reischmann responded that many other states have
36 laws such as Florida’s, he said that the purpose of the resolution is to request that the legislature
37 amend the scope of the sunshine laws so that they apply to State agencies as well. He stated, “As I
38 understand, the purpose of this is just to implore the State government to impose the same
39 requirement on itself.”

40

41 Mayor Strickland noted that this is an issue which could be posed to our current state legislators.

42

43 **Motion passed by a 6/1 roll call vote of the Council with Council**
44 **Member Abraham voting “no.”**

45

1 **G. RESOLUTION NO. 556-09:** A resolution of the City Council of the City of
2 Orange City, Florida, providing for the establishment of a Citizens Alternative
3 Water Advisory Committee; setting out responsibilities, duration of project
4 and procedures; repealing all resolutions or parts of resolutions in conflict
5 herewith; and providing for an effective date.
6

7 Vice Mayor Allebach read the title of Resolution No. 556-09 into the record.
8

9 **Council Member Laputka moved to approve Resolution No. 556-09,**
10 **seconded by Council Member Rasch.**
11

12 Mr. Reischmann recalled that he had been directed to prepare a resolution to formalize an ad hoc
13 committee to study alternative water sources. He advised that this will meet the requirement of the
14 Charter contained in Section 3.01D. Mr. Reischmann said that he did not include a requirement on
15 the number of members as there was no clear direction from the Council on that aspect, therefore,
16 that will be at the discretion of Council. Council Member Laputka recalled that Council had
17 suggested that the maximum membership on the Committee should not exceed twelve.
18

19 Vice Mayor Allebach questioned whether the Committee members should be named in the
20 resolution. Mr. Reischmann responded that it is not necessary.
21

22 Council Member Mahoney suggested that Mr. Durica and/or Mr. Storke may be interested in
23 participating on the committee.
24

25 Timothy Golding, 533 Placid Run Rd., came forward and said that he would like to volunteer to
26 serve on the Committee.
27

28 Mr. Reischmann suggested that Council act on Resolution No. 556-09 and then make a motion to
29 approve the list of members which was distributed by the City Clerk.
30

31 **Motion to approve Resolution No. 556-09 passed by a 7/0 roll call vote**
32 **of the Council.**
33

34 **Vice Mayor Allebach moved to approve the names listed as members**
35 **of the Sustainable Water Committee as distributed by the City Clerk,**
36 **seconded by Council Member Rasch and passed by unanimous 7/0**
37 **voice vote of the Council.**
38

39 Council Member Laputka stated that he just returned from Alaska where he met a hydrologist who
40 works for the State. He said the hydrologist was familiar with the geology of Orange City.
41

42 **8. DISCUSSION AND ACTION:** None at this time.
43

44
45 **9. NEW BUSINESS:**
46

1 **10. REPORTS**

2
3 A. City Manager

4
5 Mr. Murray reported that tonight's action in setting a tentative millage rate would allow staff to
6 complete the proposed budget. Staff will present the proposed budget recommendations and budget
7 message to Council on Friday.

8
9 Mr. Murray informed Council of a house on the corner of Park and Plum Avenues that was damaged
10 by a sinkhole. Mr. Murray said that both Public Works and the building official investigated but
11 could not find any damage. Ms. Cook, the owner, has settled with her insurance company and
12 wishes to donate the home to the City. He showed Council an aerial view of the property. The
13 inside of the home was gutted and it would cost an additional \$5,000 to complete the demolition.
14 Mr. Murray recommended turning the lot into a "pocket park" if Council wishes to accept the
15 donation. He said there are ample impact fee funds to build neighborhood parks. Mr. Murray said
16 that he needed a consensus of the Council to proceed and to have the City Attorney draw up the
17 necessary documents. Council Member Laputka spoke in favor of this action. Mr. Murray noted
18 there are two homes that abut this property that are also having sinkhole issues. Once the
19 homeowners have settled with their insurance company, they too would be interested in donating
20 property to the City. Therefore, it's possible that this park could be expanded in the future. Mr.
21 Murray said he envisions a very "passive" park with landscaping and a bench. In response to a
22 question from Council Member Mahoney, Mr. Murray said there is no liability involved. Council
23 Member Mahoney questioned what would become of the property if the City were to decline. Mr.
24 Murray said that the property could be classified as condemned and the City would have to renovate
25 or destroy the home.

26
27 **It was the consensus of the Council that the City Manager accept the**
28 **donation of property on Plum Avenue and for the City Attorney to**
29 **proceed to draft the necessary documents.**

30
31 Council Member Sherrill questioned whether the City could build a park without the consent of the
32 residents of that neighborhood. Vice Mayor Allebach said that one of his neighbors bought the lot
33 next to his home and turned it into a park, and there was no input from the residents of the
34 neighborhood. Mr. Reischmann noted the City must make sure there are no deed restrictions that
35 would limit the use of this property for the City's intended use.

36
37 B. Mayor/City Council

38
39 Council Member Sherrill reported that he attended a WAV Executive Board meeting and that
40 Lindsay Roberts, Executive Director of WAV, has submitted her resignation. Ms. Roberts has taken
41 a position in North Carolina and the WAV Executive Board agreed to accept her resignation with
42 regrets. It was the unanimous consensus of the Executive Board to dissolve WAV. The best way to
43 accomplish that task would be discussed at the next meeting of the full WAV board on August 19.
44 Council Member Sherrill said he would like to see WAV continue but it would be difficult to find a
45 replacement for Ms. Roberts. He said that dissolving WAV may mean that the cities of West
46 Volusia (DeLand, Deltona, Orange City and DeBary) get together and come up with a program that

1 is similar to WAV to work with the cities on the West side of Volusia to find alternative water
2 sources. Council Member Sherrill expressed his concerns that the old "east side versus west side"
3 situation will return. He felt the western cities need to work together as one entity to get things
4 done. Council Member Sherrill said the he distributed an article about water issues in Colorado (a
5 copy of which is attached and becomes a permanent part of these minutes). He remarked Florida is
6 not the only one having water issues. The Colorado River is in a dire state, for ten years it has not
7 been getting enough rainfall to build up the reservoir and have enough water to last another 10 years.
8 A similar situation exists in Georgia and just about every other state in the country. Council
9 Member Sherrill said that water conservation is the first issue that should be addressed. People will
10 have to start conserving or pay hefty fines. He said everyone would have to consider ways to save
11 water. He stated, "Trust me it is going to get serious."

12
13 C. City Clerk

14
15 Ms. Renner said that she received some information from the Volusia Supervisor of Elections Office
16 regarding the number of registered voters. It includes a breakdown by district. She passed out
17 copies for Council's review (a copy of which is attached and becomes a permanent part of these
18 minutes). Ms. Renner said that she is framing a district map for the Council Chambers and that it
19 should be ready for the next meeting. Ms. Renner said that District 1 has 728 registered voters;
20 District 2 has 911; District 3 has 1,091; District 4 has 1,431; and District 5 has 1,561 registered. She
21 said this report captures only the active registered voters. In response to a question from Council
22 Member Mahoney, Ms. Renner said an active registered voter would have voted within the last two
23 elections. The Supervisor of Elections regularly purges the voting list and separates all the inactive.
24 Currently, the City has 5,722 registered voters. Mr. Reischmann reminded Council the districts were
25 formed based on population, not registered voters.

26
27 D. City Attorney

28
29 Mr. Reischmann discussed new legislation, SB 216, which prohibits local government from taking
30 sides on political issues or "electioneering." He noted that an article from the Florida League of
31 Cities had been distributed to the Council (a copy of which is attached and becomes a permanent
32 part of these minutes) discusses the matter. He said SB 216 is very vague and there are a lot of
33 ambiguities. It is a new law and it is unknown how it would be implemented. It amends Chapter
34 106 of the Florida Statutes and extends potential civil and criminal penalties. Mr. Reischmann
35 pointed out that this bill does not apply to any State representative. Mr. Reischmann said that he
36 would keep the Council informed.

37
38 Mayor Strickland questioned whether there was any additional information about SB 360 now that it
39 is in place. Mr. Reischmann responded "no." He said that municipalities in South Florida have
40 already filed a lawsuit challenging SB 360 as unconstitutional. There may be other cities joining the
41 lawsuit as well as the Florida League of Cities. SB 360 is a new law that created exceptions for
42 transportation concurrency and creates automatic extensions, statewide, on all development orders.

43
44 **11. APPROVAL OF MINTUES**

July 14, 2009 Regular Meeting

45

1 **Council Member Laputka moved to approve the minutes of July 14,**
2 **2009 Regular Meeting, seconded by Council Member Sherrill, and**
3 **passed by a unanimous 7/0 voice vote of the Council.**
4

5 **12. COUNCIL COMMENTS:**
6

7 Vice Mayor Allebach said that he competed this weekend in the Space Coast Classic body building
8 competition and placed second in the over-40 light heavyweight division. The person who was
9 better in that division ended up winning the overall. He stated, "That why again you saw my face
10 shrink up, especially before the last meeting."
11

12 Council Member Sherrill directed his comment to Mr. John Davis, Parks & Recreation
13 Superintendent, stating that his grandson has given a thumbs up on the splash pad.
14

15 Council Member Laputka said that he was in Alaska last week and he got a phone call from Mr.
16 Davis. He remarked that technology is amazing. He said that he left last night looking at snow-
17 topped mountains and by morning, he was in Florida mowing the grass.
18

19 Council Member Mahoney announced that he would not be seeking re-election this fall. He said that
20 demands on his time over the next year would likely result in a level of unacceptable absences. He
21 stated, "We have been there before and I don't want to contribute to that. That is the basis of my
22 decision."
23

24 Mayor Strickland said that he spent six days in New York City. He said that he had a wonderful
25 time, but noted the number of closed businesses and unoccupied buildings. He observed that even
26 the restaurants seemed desperate for some kind of business. The Mayor stated that seeing the
27 economic devastation in a major city like New York and then to come back and see businesses such
28 as the Chamber of Commerce closing in Orange City "Makes me believe we are still in for some
29 very hard times."
30

31 **13. ADJOURN:**
32

33 There being no further business, Mayor Strickland adjourned the meeting at 8:57 p.m.
34

35 **RESPECTFULLY SUBMITTED:**
36

APPROVED ON:
37

38
39
40 Gloria Williams, CMC
41 Deputy City Clerk

August 11, 2009