

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City,
2 Florida, held on Tuesday, November 10, 2009 at 7:00 p.m. in Council Chambers, 201 N. Holly
3 Avenue, Orange City.

4
5 **CALL TO ORDER**

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

8
9 **ROLL CALL**

10
11 **PRESENT:** Mayor Harley Strickland; Vice Mayor Jeff Allebach; Council Members; Bill
12 Crippen, Gary Blair, Tom Laputka, Anthony Pupello, Tom Abraham; City Attorney William
13 Reischmann; Interim City Manager Chester Murray; City Clerk Deborah Renner

14
15 **INVOCATION**

16
17 The Invocation was given by Ann Marie Seiler, Mosaic Unitarian Universalist Church, followed
18 by the Pledge of Allegiance.

19
20 **I. ELECTION OF VICE MAYOR**

21
22 Mayor Strickland passed the gavel to Vice Mayor Allebach.

23
24 **Mayor Strickland nominated Council Member Tom Laputka as Vice**
25 **Mayor, seconded by Council Member Blair.**

26
27 **Council Member Abraham nominated Council Member Crippen as Vice**
28 **Mayor, seconded by Council Member Pupello.**

29
30 Vice Mayor Allebach stated that the two nominees for Vice Mayor are Council Member Crippen
31 and Council Member Laputka.

32
33 Council Member Crippen stated that although he is new to the Council, he has “been around for
34 a while.” He said that he would welcome the opportunity to serve as Vice Mayor.

35
36 Council Member Blair spoke in support of Council Member Laputka’s nomination. He noted
37 that Council Member Laputka is well-known and well-liked in the community.

38
39 Council Member Laputka stated that he would accept the nomination.

40
41 Council Member Pupello expressed his confidence in either candidate.

42
43 Council Member Abraham stated that he chose Mr. Crippen because he “had the courage to run
44 for the only at-large seat.” He said that Mr. Crippen “deserves the Vice Mayor position at this
45 time.”

46

1 Mayor Strickland said that he felt both candidates would “do a fine job.” He said that the reason
2 he nominated Council Member Laputka is that he has two years left in his term of office while
3 Mr. Crippen has four, and a Vice Mayor can serve only two consecutive terms.
4

5 Council Member Abraham stated that Mr. Crippen’s qualifications are “very high.” He has
6 thirty to thirty-five years experience in government, two Master’s degrees, and learns quickly.
7 Council Member Abraham said that Council Member Crippen impressed the people with his
8 educational qualifications and his caliber. He made it clear that he was “not underestimating”
9 Mr. Laputka’s qualifications.
10

11 Procedurally, the City Attorney suggested that votes could be made for one of the candidates at
12 this time. He said that it could be done by either voice vote or paper ballot and that every
13 Council Member must vote including those who are nominated.
14

15 Council Member Abraham asked whether Mayor Strickland passed the gavel to Vice Mayor
16 Allebach just because of the election of Vice Mayor. He questioned whether this is legal. Mr.
17 Reischmann responded that under Roberts Rules of Order, the Mayor must relinquish the gavel
18 in order to make a motion. Council Member Abraham stated, “I somehow or other get the
19 impression that he did it just because he wanted to move the motion right at the beginning.” Mr.
20 Reischmann responded that it was the Mayor’s right to do so.
21

22 Vice Mayor Allebach said that the motions would be combined into a slate of candidates and he
23 directed the City Clerk to provide a piece of paper to each Council Member for them to write the
24 candidate of their choice. He reminded each Council Member to sign their ballot.
25

26 **The City Clerk announced that Mr. Crippen received three votes**
27 **and Mr. Laputka received four votes.**
28

29 Vice Mayor Laputka came forward and took his oath of office.
30

- 31 **1. ABSENCES:** None at this time
- 32
- 33 **2. PRESENTATIONS:** None at this time
- 34
- 35 **3. CITIZEN COMMENTS:**
- 36

37 Hugh Strickland, 420 May Street, came forward. Mr. Strickland noted that an orange and a rose
38 were placed on a chair in the back of the room. He stated, “Somebody thought of this, to put it
39 back there, and I thank them.” He noted that the items were placed in honor of Mike Polgar who
40 passed away last evening. Mr. Strickland advised that Mr. Polgar’s viewing would be held
41 tomorrow at Allen Summerhill in DeLand from 6-8 p.m. A mass will be held at 9:00 a.m. on
42 Thursday. Mr. Strickland stated, “Mike was a very sweet and thorny guy. He was full of
43 energy. He brought an explosion on the other end of the phone when he called you. He seldom
44 called you unless he had something important to discuss.” Mr. Strickland noted that Mr. Polgar
45 attended many council meetings and challenged many ideas. He stated, “Rightly or wrongly,
46 he got up off the couch every day and made Orange City better by asking questions.” He noted

1 that it is hard to get people to become involved in City government. In conclusion, Mr.
2 Strickland stated, "I will miss Mike and many of us will miss Mike. Some people have sighed a
3 sigh of relief because their phone will not light up. I, personally, wish we had a few more Mike
4 Polgars who would get up off the couch and show up." Mr. Strickland closed with a prayer.
5

6 Gina Holmes, 670 Placid Run Road, came forward and spoke in opposition to the "forty-day
7 water bills". She noted that waiting an extra ten days to read the meter often causes the reading
8 to cross the threshold into a higher rate bracket. She noted that the forty-day bills actually
9 include a third of the next month. Ms. Holmes said that the increased water bills caused many
10 neighbors in her subdivision to not be able to pay their homeowners dues. She asked that
11 Council consider remedying this situation. Ms. Holmes noted that in the past twelve months, 56
12 homes out of 141 in her development are in foreclosure. In addition, there are twelve homes that
13 have stopped paying their payments and are awaiting foreclosure action to begin. She said that
14 she has been served with foreclosure notices seven times in the past thirty days. Ms. Holmes
15 advised that the Home Owners Association (HOA) does not have the funds to pay the bill for the
16 streetlights. She said that she has secured volunteers to mow the lawns on the abandoned homes,
17 but it has been a struggle to keep up with it. The contract for the street lights is for one
18 additional year. She said that it would be greatly appreciated if the City could help in any way.
19 Ms. Holmes asked whether the City gets a better rate for the streetlights than the HOA. Ms.
20 Holmes said that she has been working with some partners to open a coffee house. She stated,
21 "In the past few months, I've run into a few issues that are starting to make me not fight as hard
22 for my own town, which is hard for me to say." She outlined the reasons why she feels this way,
23 specifically, the sign regulations. Finally, Ms. Holmes discussed the GEL Corp. issue. She said
24 that as a young person considering starting a business, she could relate to the owner of GEL.
25 Ms. Holmes stated, "It's kind of scary to me to think, as this young person who's about to risk
26 everything to start a business, that I could be forced to close when I finally feel like I've got
27 something here. So I just want to mention to you the picture that is being painted to the citizens
28 of Orange City based on stuff that we're hearing from the meetings and from the newspaper."
29

30 Alan James, 1045 E. Graves Avenue, came forward and told Council that he has started a
31 Businessman's Association in Orange City and they are working toward "positive things" within
32 the City. He said that they hope to work with the Council to "direct future activity towards the
33 benefit of the businesses." Mr. James asked Council to temporarily relieve the requirements of
34 the existing sign ordinance from now to the end of the year so that the businesses can "at least do
35 what they need to do to survive." He asked that action be taken quickly as the holidays are
36 approaching. In the long term, Mr. James said that he would like to see different sign
37 requirements in the historic area than where the "big box" stores are located.
38

39 Bill Abell, 1040 S. Volusia, came forward and asked Council to loosen the restrictions on
40 temporary signs in order to create business. He said that he obtained a banner permit and during
41 the thirty days that the sign was out, traffic at his business increased substantially. He said that
42 once the thirty days was up and the banner came down, things slowed down, stating, "I'm pretty
43 much back to running a morgue again." He asked Council to set the ordinance aside "during
44 these hard times."
45

1 Jimmie Barker, 2332 Sandlewood, came forward and said that he recently moved back to the
2 City after being away for twenty years. Mr. Barker said that when he moved in to his house, the
3 water was already on so he presumed it was included in his rent. Then after a couple of months
4 he came home one day and the water was off, so he turned it back on. Mr. Barker said that he
5 went to the water company to try to resolve the issue and was charged \$140 in fees to have the
6 water turned back on. He said that he did not feel he was treated fairly and asked that Council
7 refund the \$140. Mr. Murray said that he would investigate the matter.
8

9 Henry Durica, 1310 E. Lansdowne, came forward and commented on Resolution No. 572-09
10 which appears later on the agenda. He asked if this would entail a cost to the City. The Mayor
11 said it would be discussed later in the meeting. Mr. Durica advised that he voted for most of the
12 current Council and expressed his confidence that they could select a City Manager without the
13 assistance of a consultant. He suggested that a background check could be done locally. He
14 thanked Council Member Laputka for introducing the discussion about temporary signs. He
15 noted that foreclosures and jobs “go together” and said that any action to stimulate the economy
16 should be considered.
17

18 Dennis Wells, 280 Wekiva Springs Rd., Suite 2090, Longwood, came forward and stated that he
19 was representing GEL Corporation. Mr. Wells stated that at the last meeting, he had requested to
20 speak prior to the commencement of the executive session. Mr. Wells recalled that at the June
21 23, 2009 meeting, Council had tabled indefinitely a decision on whether to proceed with
22 enforcement of an IPUD zoning for GEL Corporation. He suggested that this motion to table the
23 zoning action also extended to the issue of whether to pursue litigation against GEL. Mr. Wells
24 advised that in September, the City’s Special Counsel filed a motion with the Court to
25 supplement the complaint. He stated, “I have a real problem with that.” Mr. Wells noted that a
26 request for a “short notice temporary injunction” was included which means that GEL would
27 have to shut down and put sixty people out of work.
28

29 Mr. Wells stated that he did not see a record of a public meeting of the City Council authorizing
30 the “reinstitution” of the legal action against GEL. Mr. Wells maintained that litigation had been
31 suspended in June. He stated, “By the reinstatement of that litigation, it is possible that there may
32 have been a violation of the government in the sunshine law.” He said that if the action to file
33 the injunction was authorized at the executive session, it would have been in violation since there
34 was no public vote. He said this may be an issue for a judge to determine in the future. Mr.
35 Wells asked that one of the Council propose a resolution to hold a public meeting to decide
36 whether or not the litigation should be reinstated. Mr. Wells requested that one Council
37 Member be appointed to participate in mediation with GEL to discuss possible resolutions to the
38 issues. Mr. Wells noted that had the injunction been granted by the Judge today, sixty people
39 would have lost their jobs. The Judge hearing the case decided to reset the matter to a future
40 date. Mr. Wells stated that GEL Corp. wishes to discuss a resolution to the matter with someone
41 on the Council. Mr. Wells objected that at the last Council meeting, outgoing Council Member
42 Jim Mahoney was granted an opportunity to make a power point presentation that lasted for ten
43 minutes while GEL was not allowed to speak. He said that this “causes me some concern”
44 which he said that he has also shared with the Court. Mr. Wells stated, “I am asking you to
45 essentially rectify and avoid any further possible sunshine law violation.” He summarized the

1 issue as a zoning issue not affecting the health or safety of the citizens. Mr. Wells stated that if
2 the matter goes into further litigation, the costs could go much higher than anyone anticipates.

3
4 Council Member Blair noted as a point of order that citizen comments are limited to five minutes
5 and that Mr. Wells has already well-exceeded the limit.

6
7 Mr. Milton E. Evans, Jr., GEL Corp., 1200 S. Leavitt Avenue, came forward at this time. Mr.
8 Evans congratulated the new Council Members. He told the Council Members that GEL is
9 willing and available to engage in any type of negotiations requested. Mr. Evans stated, "You all
10 made a decision last week to go to court today and to put sixty people out of work. And...for
11 what? For something you should be able to sit down and negotiate out." He said that he has
12 spent twice as much as the City has on legal bills in this matter and stated, "I'm not sure that the
13 citizens out here actually know what you all are spending, or what you all did. You all did a
14 shade meeting the other night that knocked all these people out. They didn't have a decision in
15 how you spent their money in litigation that's not going to get anybody anywhere." Mr. Evans
16 said that they are ready and willing to negotiate the situation rather than resort to litigation. He
17 requested again that one person be appointed to participate in the negotiation. Mr. Evans said
18 that his company recently put out a sign that they were open for business and within hours had
19 received a citation from the City and made to take the sign down.

20
21 **5. AGENDA:** None at this time.

22
23 **4. ORDINANCES – FIRST READING:**

- 24
25 **A. ORDINANCE NO. 409:** An ordinance of the City Council of the City of
26 Orange City, Florida, providing for a non-exclusive franchise to Container Rental
27 Company, Inc. (CRC) for the collection and disposal of commercial trash,
28 garbage, recyclable materials and other refuse within the City limits; providing for
29 definitions, terms condition, rates, compliance with laws, arbitration, standards of
30 performance, collection, regulation operations, hours, routes, penalties,
31 accounting, complaint resolutions; containing a repealer provision; a severability
32 clause and providing for an effective date.

33
34 **Vice Mayor Laputka moved to approve Ordinance No. 409**
35 **on first reading, seconded by Council Member Blair**

36
37 Council Member Abraham asked whether any type of inspection is required on the trucks used
38 by the commercial haulers to determine whether the trucks are clean or disinfected. He said that
39 he has heard complaints about scavenger birds in the streets after the trucks have passed noting
40 that children play in these same streets. Council Member Abraham asked whether there is
41 anything in the contract regarding disinfection of the trucks.

42
43 Linda Snyder, Financial Services Supervisor, came forward and noted that the contracts under
44 consideration are commercial and that Council Member Abraham is referring to residential
45 service. She clarified that these haulers service commercial dumpsters. She said that she does
46 not know if or how they disinfect.

1
2 Council Member Abraham advised that he has heard of such inspections in other cities where
3 they are conducted once or twice a year and he asked whether Orange City has ever done such
4 inspections. Ms. Snyder responded that if a complaint is received, Code Enforcement would
5 respond.
6

7 Mr. Reischmann noted that on Page 3 of the Agreement, all companies are required to maintain
8 their equipment in good repair and in a sanitary condition. He explained the difference between
9 residential and commercial solid waste service. He advised that there is a complaint resolution
10 process which provides that compliance must be met within 24 hours. Under the contract, the
11 franchisee is also required to clean up any spills or leakage. Mr. Reischmann noted that there
12 may be occasions when the commercial trucks must pass through a residential area to get to their
13 collection sites.
14

15 Mr. Crippen noted a typographical error in Section 10 on Page 4 of the Agreement. The last
16 word in this section is written as "liter" and it should read "litter." Mr. Reischmann agreed that
17 is a typographical error which will be corrected.
18

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

- 22 **B. ORDINANCE NO. 410:** An ordinance of the City Council of the City of
23 Orange City, Florida, providing for a non-exclusive franchise to Sunshine
24 Recycling, Inc. for the collection and disposal of commercial trash, garbage,
25 recyclable materials and other refuse within the City limits; providing for
26 definitions, terms condition, rates, compliance with laws, arbitration, standards of
27 performance, collection, regulation operations, hours, routes, penalties,
28 accounting, complaint resolutions; containing a repealer provision; a severability
29 clause and providing for an effective date.
30

31 **Vice Mayor Laputka moved to approve Ordinance No. 410**
32 **on first reading, seconded by Council Member Blair and**
33 **passed by unanimous 7/0 roll call vote of the Council.**
34

- 35 **C. ORDINANCE NO. 411:** An ordinance of the City Council of the City of
36 Orange City, Florida, providing for a non-exclusive franchise to Emerald Waste
37 Services LLC (EWS) for the collection and disposal of commercial trash,
38 garbage, recyclable materials and other refuse within the City limits; providing for
39 definitions, terms condition, rates, compliance with laws, arbitration, standards of
40 performance, collection, regulation operations, hours, routes, penalties,
41 accounting, complaint resolutions; containing a repealer provision; a severability
42 clause and providing for an effective date.
43

44 **Vice Mayor Laputka moved to approve Ordinance No. 411**
45 **on first reading, seconded by Council Member Allebach**
46 **and passed by unanimous 7/0 roll call vote of the Council.**
47

- 1 **D. ORDINANCE NO. 412:** An ordinance of the City Council of the City of
2 Orange City, Florida, providing for a non-exclusive franchise to Waste Pro for the
3 collection and disposal of commercial trash, garbage, recyclable materials and
4 other refuse within the City limits; providing for definitions, terms condition,
5 rates, compliance with laws, arbitration, standards of performance, collection,
6 regulation operations, hours, routes, penalties, accounting, complaint resolutions;
7 containing a repealer provision; a severability clause and providing for an
8 effective date.

9
10 **Vice Mayor Laputka moved to approve Ordinance No. 412**
11 **on first reading, seconded by Council Member Pupello and**
12 **passed by 6/1 roll call vote of the Council with Mayor**
13 **Strickland voting “no.”**
14

- 15 **E. ORDINANCE NO. 413:** An ordinance of the City Council of the City of
16 Orange City, Florida, providing for a non-exclusive franchise to Waste Services
17 of Florida, Inc. for the collection and disposal of commercial trash, garbage,
18 recyclable materials and other refuse within the City limits; providing for
19 definitions, terms condition, rates, compliance with laws, arbitration, standards of
20 performance, collection, regulation operations, hours, routes, penalties,
21 accounting, complaint resolutions; containing a repealer provision; a severability
22 clause and providing for an effective date.

23
24 **Vice Mayor Laputka moved to approve Ordinance No. 413**
25 **on first reading, seconded by Council Member Pupello and**
26 **passed by unanimous 7/0 roll call vote of the Council.**
27

- 28 **F. ORDINANCE NO. 414:** An ordinance of the City Council of the City of
29 Orange City, Florida, providing for a non-exclusive franchise to 4 Jays
30 Management, Inc. for the collection and disposal of commercial trash, garbage,
31 recyclable materials and other refuse within the City limits; providing for
32 definitions, terms condition, rates, compliance with laws, arbitration, standards of
33 performance, collection, regulation operations, hours, routes, penalties,
34 accounting, complaint resolutions; containing a repealer provision; a severability
35 clause and providing for an effective date.

36
37 **Vice Mayor Laputka moved to approve Ordinance No. 414**
38 **on first reading, seconded by Council Member Blair and**
39 **passed by unanimous 7/0 roll call vote of the Council.**
40

- 41 **G. ORDINANCE NO. 415:** An ordinance of the City Council of the City of
42 Orange City, Florida, providing for a non-exclusive franchise to Orlando Waste
43 Paper Co. Inc. for the collection and disposal of commercial trash, garbage,
44 recyclable materials and other refuse within the City limits; providing for
45 definitions, terms condition, rates, compliance with laws, arbitration, standards of
46 performance, collection, regulation operations, hours, routes, penalties,

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

3
4 **Vice Mayor Laputka moved to approve Ordinance No. 415**
5 **on first reading, seconded by Council Member Allebach**
6 **and passed by unanimous 7/0 roll call vote of the Council.**
7

- 8 **H. ORDINANCE NO. 416:** An ordinance of the City Council of the City of
9 Orange City, Florida, providing for a non-exclusive franchise to Disposall for the
10 collection and disposal of commercial trash, garbage, recyclable materials and
11 other refuse within the City Limits; providing for definitions, terms condition,
12 rates, compliance with laws, arbitration, standards of performance, collection,
13 regulation operations, hours, routes, penalties, accounting complaint resolutions,
14 containing a repealer provision, a severability clause and providing for an
15 effective date.

16
17 **Vice Mayor Laputka moved to approve Ordinance No. 416**
18 **on first reading, seconded by Council Member Allebach.**
19

20 Ms. Snyder noted that Disposall has submitted a check for \$734 to cover franchise fees for 2009.

21
22 **Motion passed by 5/2 roll call vote of the Council with**
23 **Council Members Abraham and Pupello voting “no.”**
24

- 25 **I. ORDINANCE NO. 417:** An ordinance of the City Council of the City of
26 Orange City, Florida, providing for a non-exclusive franchise to Disposall for the
27 collection and disposal of commercial trash, garbage, recyclable materials and
28 other refuse within the City Limits; providing for definitions, terms condition,
29 rates, compliance with laws, arbitration, standards of performance, collection,
30 regulation operations, hours, routes, penalties, accounting complaint resolutions,
31 containing a repealer provision, a severability clause and providing for an
32 effective date.

33
34 **Vice Mayor Laputka moved to approve Ordinance No. 417**
35 **on first reading, seconded by Council Member Blair.**
36

37 Mr. Reischmann advised the new Council Members that the reason these contracts are being
38 done by Ordinance is because the charter requires any franchise to be granted by Ordinance.

39
40 **Motion passed by unanimous 7/0 roll call vote of the**
41 **Council.**
42

43 **5. PUBLIC HEARING/ORDINANCES – SECOND & FINAL READING:** None at this
44 time

45
46 **6. RESOLUTIONS:**

- 1
2 **A. RESOLUTION NO. 572-09:** A resolution of the City Council of the City of Orange
3 City, Florida, authorizing the Mayor to execute an agreement with Colin Baenziger to
4 conduct a search for City Manager candidates for the City of Orange City, repealing all
5 resolutions in conflict herewith and providing for an effective date.
6

7 **Council Member Blair moved to approve Resolution No.**
8 **572-09, seconded by Vice Mayor Laputka.**
9

10 Mr. Murray recalled that he had provided his recommendation for the recruitment process for
11 hiring the new City Manager. He said that in his previous report, he had provided the available
12 options. Mr. Murray said that Council had directed him to present a contract with Mr.
13 Baenziger's firm at this meeting.
14

15 Council Member Crippen stated that he had a letter from Dick Kelton, ICMA which discussed
16 the services of the Range Riders. He noted that there is no cost for the Range Rider's service.
17 Council Member Crippen noted that Mr. Kelton had been a former Volusia County Manager
18 prior to becoming Manager of Palm Coast. He spoke in support of further discussion with the
19 Range Riders. He said that he would also like to appoint a citizen's committee to review
20 applications. He suggested that the committee could also "do their own digging" in order to
21 avoid some of the problems encountered in neighboring cities.
22

23 Council Member Blair expressed his support for Mr. Baenziger's firm, noting that the Range
24 Riders seem to deal with the "retired and fired" managers. He said that he felt the search should
25 be expanded nation-wide. He said that he also supports a citizen's committee. He said that he
26 did feel that "professional guidance" was needed for the search.
27

28 Council Member Allebach said that he felt a consultant would create a more "professional
29 attitude" for the search and that this is what the City needs. He noted that the City faces some
30 complicated issues and he did not want a manager who is looking to retire in two years or
31 someone who is "learning as they go." Council Member Allebach stated that he felt the fee is
32 "relatively small compared to the wrong choice." He noted that the average term for a City
33 Manager is 3.3 years in one place. He reiterated that Council needs to act professionally
34 throughout the process.
35

36 Council Member Pupello said that it is "critical" to have citizen input.
37

38 Colin Baenziger came forward and said that a citizen's advisory committee could be integrated
39 into the search process, noting that he had just done one in Holly Hill. He said that it is "not all
40 that common," but could be done if that is Council's wish. He said that their goal is to include
41 whatever is needed into the process so that Council is comfortable with their decision. Council
42 Member Pupello asked how much additional cost would be associated with a citizen's
43 committee. Mr. Baenziger responded that there would be no additional cost.
44

45 Vice Mayor Laputka agreed that he is in support of a professional search, stating that he has seen
46 mistakes made throughout the County and that they are "very costly to the communities." He
47 asked what is involved in a background check. Mr. Baenziger responded, "We pride ourselves

1 on our background checks, quite frankly.” He said that their background checks include criminal
2 (at the State level), Federal, and civil checks at the Federal and County level. Credit and
3 bankruptcy checks are also run along with motor vehicle checks. Education is verified, as is
4 employment for the past fifteen years. The employment portion validates previous employment
5 dates. Reference checks address the character of the candidate. Up to eighteen references are
6 requested which include current and past elected officials, the City Attorney, the auditor,
7 Chamber of Commerce, newspaper reporters, fellow city managers, two subordinate employees
8 and two community activists. Mr. Baenziger said that the goal is to speak with at least eight
9 people from the list. He said that the first step in the recruitment process is advertising and
10 getting the word out about the opening. Vice Mayor Laputka asked how many people would go
11 through the full screening process. Mr. Baenziger responded that it is usually 10 to 12. Vice
12 Mayor Laputka asked what happens if Council is not satisfied with that round of candidates. Mr.
13 Baenziger said in that case, the process would begin again at no charge. He said that would
14 continue as long as necessary until Council is satisfied with the candidates.

15
16 Council Member Abraham said that when this discussion came before Council the first time, he
17 expressed his opposition to spending \$21,000 for a recruiter. He suggested conducting the
18 search internally using ads in newspapers and using help from ICMA as suggested by Council
19 Member Crippen. Council Member Abraham said that he received an email from a citizen in
20 Deltona who served as Chair of their citizen’s search committee. He noted that Mr. Baenziger’s
21 firm had handled that search. Council Member Abraham said that he forwarded the email that he
22 received to Mr. Baenziger. Council Member Abraham said that the email he received from a Mr.
23 Tavernier suggested that some professional recruiters were not very professional. He noted that
24 the City of Deltona did not find a new candidate and instead chose to stay with their acting
25 Manager. He stated, “So, under these circumstances, from what I hear from other sources also,
26 Mayor, I am not for a professional recruiter who may not be very professional.”

27
28 Council Member Allebach asked for clarification of the process, stating his understanding that
29 Mr. Baenziger would meet with each Council Member individually to create a profile of the
30 “ideal” manager. Mr. Baenziger said that is correct. He advised that the citizen’s committee
31 would be involved in putting together the recruiting material and providing advice and, if
32 Council so desires, doing an initial screening of the resumes. He said that they do not
33 recommend having the committee do any ranking of the candidates. Mr. Baenziger stated that
34 since May 2005, his firm has done 48 of the last 66 City and County Manager searches in Florida
35 where a recruiting firm has been used.

36
37 Mayor Strickland questioned what the timeline for the search would be. Mr. Baenziger
38 distributed a handout to each Council Member. He said that the process would begin next week
39 on November 17th concluding toward the end of February 2010.

40
41 Council Member Blair asked whether the holidays might slow down the search process. Mr.
42 Baenziger said that he did not anticipate that it would and expressed his confidence that anyone
43 on their email list of 8,000 who is interested in coming to Florida would take a look at the
44 recruitment. He said that it will also be advertised through ICMA. Council Member Blair asked
45 what other publications are used. Mr. Baenziger responded that they advertise in
46 “GovernmentJobs.com,” the Florida League of Cities newsletter as well as the FLC CM’s

1 publication. In response to a question from Mayor Strickland, Mr. Baenziger said that they
2 expect to receive somewhere between 60-80 responses, possibly higher.

3
4 Henry Durica, 1080 E. Lansdowne, noted that sometimes a manager only lasts for three months
5 on the job. He questioned whether the City would have to pay another \$21,500 to conduct
6 another search. Mr. Baenziger responded that he does give a guarantee that if the person selected
7 leaves in the first year, they will repeat the search for free. If the person leaves in the second
8 year, another search will be done for expenses only.

9
10 Vice Mayor Laputka observed that the search is a “massive job” and stated, “I don’t know how
11 you do it so cheaply.” He said that he would like to see a candidate who “wants to be here” and
12 that can “manage the City as we expect it to be managed.”

13
14 Mayor Strickland reiterated that citizen involvement is important to him and said that he has
15 ideas about a number of different ways to accomplish that. He said that he had heard there were
16 some difficulties in Holly Hill regarding the resumes of some of the candidates. Mr. Baenziger
17 said that he didn’t recall any problems along those lines. He said that after having done about 70
18 searches, they’ve got things “ironed out.” He said that they ensure that the resumes are accurate
19 for the people they are recommending.

20
21 Council Member Blair noted that Mr. Baenziger is a former city manager himself and stated that
22 was “impressive.”

23
24 Council Member Pupello noted that the Range Riders provide their service for free and asked
25 what the timeline would be if they were used. Mr. Murray responded that his observation is that
26 their candidates are mainly retired managers who are looking for something short-term. He said
27 that the process with the Range Riders may be a little shorter. Mr. Murray said that he would
28 like to see a “fresh set of eyes” in the City. He said that it’s time for the City to move forward,
29 predicting that the downturn will end, stating, “you need to have someone that’s going to have
30 you positioned to take advantage of the great things that are going to happen in this area.”

31
32 Council Member Abraham asked how many resumes would be reviewed by the Council. Mr.
33 Baenziger responded that all of them will reach the Council. He said that he will forward all
34 resumes and that they will become public records in accordance with Florida law.

35
36 **Motion passed by 4/3 roll call vote of the Council with Council**
37 **Members Pupello, Abraham and Crippen voting “no.”**

38
39 **7. DISCUSSION AND ACTION:**

40
41 A. Appointments to the Planning Commission

42
43 Council Member Crippen said that he contacted Christopher Weldon and he indicated that he
44 would be willing to continue serving on the Commission. Mr. Weldon’s address is 632 W.
45 Central.

46

1 Council Member Blair named Frank Wilson, 790 E. University Ave.

2

3 Council Member Pupello named Henry Durica, 1080 E. Lansdowne.

4

5 Mr. Reischmann clarified that these individuals should be formally presented in a motion and
6 voted on. He noted that the appointees' terms would be concurrent with the Council Member
7 who appointed them.

8

9 Council Member Allebach named Bob Storke 1122 E. Wisconsin Avenue.

10

11 **Council Member Allebach moved to nominate Bob Storke to Seat**
12 **1 on the Planning & Zoning Commission, seconded by Vice Mayor**
13 **Laputka and passed by unanimous 7/0 voice vote.**

14

15 **Council Member Crippen moved to nominate Chris Weldon to**
16 **Seat 6 on the Planning & Zoning Commission, seconded by Vice**
17 **Mayor Laputka and passed by unanimous 7/0 voice vote.**

18

19 **Council Member Blair moved to nominate Frank Wilson to Seat 5**
20 **on the Planning & Zoning Commission, seconded by Vice Mayor**
21 **Laputka and passed by unanimous 7/0 voice vote.**

22

23 **Council Member Pupello moved to appoint Henry Durica to Seat 4**
24 **on the Planning & Zoning Commission, seconded by Council**
25 **Member Crippen and passed by unanimous 7/0 voice vote.**

26

27 Vice Mayor Laputka asked whether anyone else on the Commission has indicated that they no
28 longer wish to serve. Mr. Murray responded that no one has indicated they want to drop out.
29 Mr. Reischmann noted that it appears that Mr. DeSilva will no longer be on the Commission.

30

31 B. Temporary Signs

32

33 Mr. Murray advised that this item was requested and brought forward by Vice Mayor Laputka.
34 He said that the Vice Mayor has made a specific request to use the right of way for signs. Mr.
35 Murray said that this is a common request and that while he is "very sympathetic," he cautioned
36 Council that they are opening up a "pandora's box" with the use of right of way. Mr. Murray
37 noted that one of the strongest provisions of the sign ordinance prohibits off-premise signs. He
38 said that there are a couple of areas in the city where the rights of way are so large that the
39 businesses can't get their sign close to the street. In addition, new signs can only be a maximum
40 of eight feet high with a setback equal to their height from the property line. Mr. Murray
41 emphasized that the City cannot limit the language on a sign. Mr. Murray noted that businesses
42 are allowed four banners per year to be displayed for thirty days with each permit. He said that
43 he did not believe a moratorium could be issued without adopting another ordinance which
44 would take until January. He provided some background information on how and why the sign
45 regulations were implemented. Mr. Murray noted that all signs must comply with the sign
46 regulations in 2011. Currently, when a sign is modified, it is required to comply with the code.

1 He advised that snipe signs are totally illegal with the exception of political campaign signs and
2 directional signs for churches. He said that he has suggested in the past that a changeable copy
3 sign be located in the median on West Graves Avenue which would be controlled and owned by
4 the City, but would be available to non-profit organizations to promote their events.

5
6 Mayor Strickland said that he has an issue with signs in the right of way, but that he has heard
7 that some places have relaxed the rules on a temporary basis to allow banners. He noted that
8 times are difficult for businesses right now and said that the City should look for creative ways to
9 help businesses. He asked Mr. Murray if he could explore how other communities have
10 accomplished this to see if any of these suggestions would be compatible for Orange City. The
11 Mayor then asked whether any other Council Members were interested in pursuing this.

12
13 Council Member Blair responded, "Absolutely." He said that he has a neighbor who's business
14 picks up whenever he puts out snipe signs. He said that he does oppose signs in the right of way,
15 and that the number of signs a business can have should be limited. Council Member Blair said
16 that although the intent of this item is good, it's a little late to try to accomplish it before the
17 holidays. He stated, "The businesses do need some relief. There's no two ways about it."

18
19 Council Member Allebach said that something needs to be done now. He said that most banners
20 don't last much past 30 days. He said that Council needs to find a way to allow permits for the
21 remainder of the year. He asked the City Attorney to find a way to make this happen. The
22 Mayor said that he would favor a ninety-day extension with a review in sixty days. Council
23 Member Allebach expressed that there must be a way to do this.

24
25 Vice Mayor Laputka said that the entire sign ordinance needs to be reviewed. Mr. Murray said
26 that staff has been reviewing the sign ordinance for more than a year. Vice Mayor Laputka said
27 that his proposal is to temporarily lift the requirements of the sign ordinance.

28
29 Council Member Crippen concurred with the Vice Mayor's suggestion. He said that he would
30 support doing anything to stimulate business.

31
32 Mr. Reischmann said that the sign code is part of the land use regulations. In order to adopt an
33 amendment, a review by the planning commission is required. He said that what Vice Mayor
34 Laputka is proposing is a moratorium. Mr. Reischmann advised that specific case law exists that
35 requires enactment of a moratorium by the same formality used to adopt the land use regulations.
36 This means that it must be done by ordinance. He noted that the code currently prohibits any
37 signs in the public right of way. He cautioned that sign regulations often can exemplify the
38 "law of unintended consequences." He clarified that Council can regulate time, place, and
39 manner, however, they cannot regulate content. Mr. Reischmann stated, "It is to some degree, a
40 moving target because there is this constant stream of federal cases that come through expanding
41 the scope of free speech as it is applied to sign regulations." He advised that the land
42 development regulations (LDR) provide for variances for signs, however, he would be
43 "reluctant to encourage" the group mentioned by Vice Mayor Laputka earlier to apply for a
44 variance under the standards of Section 3.6 of the LDR. He explained that variances are
45 generally granted for issues such as size.

46

1 Hugh Strickland, 420 May Street, came forward and asked whether Council could amend the
2 sign ordinance at a special meeting. Mr. Reischmann responded that the ordinance must be
3 amended by ordinance and that it must be reviewed by the Planning Commission for a
4 recommendation. He said that one of the readings of the ordinance could take place at a special
5 meeting. Mr. Strickland asked whether the Council could direct the City Manager not to enforce
6 part of the code. Mr. Reischmann responded, "At their own risk." He stated that it would be his
7 advice not to do that as it could lead to lawsuits. Mr. Strickland questioned whether Council
8 could declare an economic emergency and adopt an emergency ordinance. Mr. Reischmann
9 responded that changes to the land development code would not constitute the type of emergency
10 contemplated for enactment of an emergency ordinance in Chapter 166 of the Florida Statutes.

11
12 Council Member Allebach talked about what would happen if the City suddenly allowed signs in
13 the right of ways. He suggested that the answer may be to amend the banner regulations. He
14 asked "Is there anything that we can do?" Mr. Murray responded that there is something the City
15 can do, it just can't be legally done before the end of the year. Mr. Reischmann noted that the
16 Charter prohibits amendments to the LDC by emergency ordinance. Vice Mayor Laputka asked
17 whether code enforcement could simply be restricted. Mr. Murray responded that it would open
18 the City to legal action.

19
20 Don Sherrill, 2223 Hollowridge Drive, noted that the shopping area where Big Lots is located
21 wanted to annex a number of times, but would not because they would not be allowed to have
22 their various sales in the parking lot. He noted the rules are relaxed in many other areas to allow
23 seasonal sales and suggested that this is something the City could pursue.

24
25 Mr. Strickland asked Mr. Murray how many days it takes for a code enforcement citation to
26 reach the level of a hearing before the magistrate and who makes the decision that it go to the
27 magistrate. Mr. Murray said that the law requires the City to provide "a reasonable amount" of
28 time to resolve a code enforcement citation. Mr. Reischmann explained that if the matter has not
29 been resolved when that time has expired, a second citation is issued which contains a date for a
30 hearing before the magistrate. He said that the entire process can take no less than 20-30 days to
31 60 days or more.

32
33 Vice Mayor Laputka stated, "I'm just trying to make this work...whatever it takes." He said
34 "Let's find a way to make it work."

35
36 Mr. Strickland questioned how long the code enforcement process works. Mr. Murray
37 responded, "There's room for discretion as to how quickly things move." He cautioned that also
38 leaves room for administration to be "criticized severely," therefore, the discretion should be
39 fairly applied.

40
41 Mayor Strickland asked Mr. Alan James to come forward and asked him whether or not an
42 amendment to the sign code would be beneficial to the businesses. Mr. James responded that in
43 the long term, that is the "right thing to do." Mr. Murray said that this is a project that should be
44 brought forward at the end of next year. He said that it would not be possible to modify the code
45 to address the holiday season this year. Council Member Allebach noted that banner permits can
46 be obtained at any time for just \$10. Ms. Wilson clarified that the fee for a banner is \$25.

1 Vice Mayor Laputka said that he is disappointed that nothing more can be done. He suggested
2 that enforcement be a little more “loose” over the holidays.

3
4 **8. NEW BUSINESS:**

5
6 Mr. Reischmann read from Council Rules & Procedures regarding the purpose of this portion of
7 the agenda.

8
9 Council Member Blair said that he would like a clarification regarding the purpose of the 25%
10 charge on water usage. He said that many of his constituents are upset about the charge. He
11 asked that this be placed on a future agenda.

12
13 Council Member Crippen said that he would like to find some resolution to the issue of the “40-
14 day water bill” as raised previously by Ms. Holmes. Mr. Murray said that he hoped to report
15 back on this at the December meeting.

16
17 Council Member Pupello expressed concern regarding the parking situation at Veterans
18 Memorial Park. He asked whether, because of the large number of kids using the park,
19 especially in the summer, a sign warning traffic to slow down for children at play could be
20 erected. Mr. Murray said that he would develop something to address the situation. Next,
21 Council Member Pupello noted that children are using the right of way where Ohio dead ends at
22 Carpenter and are cutting through the woods to get to school. He expressed his concern over the
23 safety of the kids traveling through that heavily-wooded area.

24
25 Vice Mayor Laputka asked who is responsible for Rhode Island off 17-92. He expressed his
26 concern that the speed limit is too high. Mr. Murray said that he thought the city had the
27 authority to set the speed. He said that he would look into it.

28
29 **9. REPORTS**

30
31 **A. City Manager**

32
33 In lieu of his report, Mr. Murray asked Mr. Allen Watts to come forward and report on today’s
34 court proceeding with GEL. Mr. Watts stated that the hearing went as expected this morning.
35 He said that the motion to amend the complaint is now before the court and Mr. Wells was given
36 20 days to respond to the amended complaint. He said that Judge Doyle asked Mr. Wells if he
37 wanted him to issue a bench warrant for the Council Members who had been subpoenaed over
38 the weekend. Mr. Wells said that would not be necessary. The hearing was continued to be reset
39 after GEL’s response is filed within 20 days. Mr. Watts said that if there is any further effort to
40 subpoena Council, he will have a hearing on a motion to quash the subpoenas. He said he would
41 be issuing questions to Mr. Wells and should have answers within 30 days.

42
43 Mr. Murray asked what should be done with the witness checks which were issued to everyone
44 who was subpoenaed. Mr. Watts said that they could be cashed. Mr. Watts announced that Mr.
45 Evans has retained Darren Elkind as additional counsel. Council Member Blair asked whether
46 he would be compensated if he were subpoenaed and had to appear. Mr. Watts responded, “Not

1 normally.” He explained that the subpoena is binding much like a jury summons. He said that
2 he could protect the witnesses called from an “unnecessary waste of time” by requesting to have
3 the subpoena quashed. Council Member Blair asked whether Council Members should avoid
4 discussions with Mr. Evans while the litigation is pending. Mr. Watts responded, “Anything you
5 say can and will be used against you.” He stated, “Don’t be rude, but be prudent.”
6

7 Mr. Reischmann recalled that earlier in the meeting, Mr. Wells had alluded to concerns about a
8 violation of the Government in the Sunshine laws. He said that the issue in question was when
9 Council made a motion to table action on the GEL rezoning indefinitely. He said that the motion
10 did not extend to the litigation. He suggested that Mr. Wells would argue that was the purpose of
11 his subpoenas. Mr. Reischmann stated, “I wanted all of you to rest assured that is not what
12 happened on June 23rd.”
13

14 **B. Mayor/City Council**

15

16 Council Member Allebach reported that the MPO had secured federal funding to alleviate
17 congestion on Hwy 415. He said that the County lost \$2.5-\$3 million because Deltona declined
18 to participate with matching funds.
19

20 Vice Mayor Laputka reported that the Citizens Sustainable Water Committee has been meeting
21 regularly. The meetings are being held at the library hall every other Tuesday. He encouraged
22 anyone with an interest to attend.
23

24 Mayor Strickland advised that he went to DeBary last week with Mr. Murray for a “photo-op”
25 regarding the takeover of services. The Mayor advised that he spoke with several business
26 owners who were “most concerned” about the fire trucks bearing Orange City’s name. He said
27 that he assured them that they would have their own identity on the signage and uniforms. The
28 Mayor said that it sets the stage so that after three years, if they wish to have their own fire
29 department, they can, or if the system is working, there may be other communities that wish to
30 join in a combined fire response.
31

32 Mr. Murray announced that DeBary is considering Orange City’s offer to assist with public
33 works. The DeBary City Council will be considering the proposal soon and out of all the
34 proposals, Orange City is ranked highest. He said that he anticipates bringing a contract before
35 Council in excess of \$500,000. Mayor Strickland noted that this is keeping in line with the
36 City’s strategic plan.
37

38 **C. City Clerk**

39

40 Ms. Renner announced that she has arranged for a photographer to come to the next meeting on
41 December 8th, and she asked that everyone arrive at 5:30. She said that she was having
42 everyone’s picture taken, along with a group photo. She asked that Council put the time on their
43 calendar.
44

45 **D. City Attorney**

46

1 The City Attorney had no further report.

2

3 **10. APPROVAL OF MINTUES** (None at this time)

4

5 **11. COUNCIL COMMENTS:**

6

7 Council Member Abraham said that he appreciates Mr. Hugh Strickland coming forward and
8 saying some “good things” about Mr. Mike Polgar who passed away yesterday. Council
9 Member Abraham said that Mr. Polgar had given him a ride just two hours before he passed. He
10 stated, “I really miss him today in the Council Meeting. For me, he is a great symbol of
11 democracy and diversity in Orange City.”

12

13 Vice Mayor Laputka stated, “I, too, would like to mark the passing of Mike Polgar. He had three
14 loves; his God, his family and his city. That was Mike Polgar... and, I’ll miss him after this
15 meeting tonight...”

16

17 Council Member Pupello said that he would also miss Mr. Polgar.

18

19 Council Member Allebach welcomed the new Council Members to a “typical” meeting tonight
20 after the busy agenda at the swearing in. He said he felt the right decision was made regarding
21 the City Manager search. He noted that the City of Orange City did not cause the current
22 economic problems.

23

24 Council Member Blair expressed his sympathy to the Polgar family over their loss, stating, “He
25 was a good guy, we didn’t always agree on everything but I always respected his opinion. He
26 will be missed.” Council Member Blair stated, “Something I’d like to say also is, I don’t like
27 being bullied. I don’t like being bullied by an attorney, by a corporation, by citizens or anyone
28 else. I’m not that kind of man...and I’m not going to take it. No bullying will go on here.
29 Thank you.”

30

31 Council Member Crippen stated, “Like all the other Council Members, I’m going to miss Mike.”

32

33 Mayor Strickland said that the recognition of outgoing Council Members was handled a bit
34 differently this time. He said that an opportunity was provided for staff to come and say their
35 farewells to the outgoing Council and he thanked the City Clerk’s office for putting that together.
36 The Mayor said that he was struggling with his own sense of loss over Mr. Polgar’s passing. He
37 said that he was spending a few days in NY and that he would do something in honor of Mr.
38 Polgar while he is there.

39

40 **12. ADJOURN:**

41

42 There being no further business, Mayor Strickland adjourned the meeting at 9:56 p.m.

43

44

45 **RESPECTFULLY SUBMITTED:**

APPROVED ON:

46

- 1
- 2 Deborah J. Renner, CMC
- 3 Deputy City Clerk
