

1 **MINUTES OF THE REGULAR MEETING** of the City Council of the City of Orange City, Florida,  
2 held on Tuesday, February 9, 2010 at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange  
3 City.

4  
5 **CALL TO ORDER**

6  
7 The meeting was called to order at 7:00 p.m. by Mayor Strickland and roll call was taken.  
8

9 **ROLL CALL**

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

14  
15 The Invocation was given by Pastor Linda Bishop, United Church of Christ, followed by the Pledge of  
16 Allegiance.

17  
18 Mayor Strickland questioned the procedure to have additional items placed on the agenda. Mr.  
19 Reischmann explained the process pursuant to the *Council Rules and Procedures*. He said a motion,  
20 second and affirmative voice vote of a super majority of five Council Members is required prior to the  
21 first order of business. Mayor Strickland passed the gavel to Vice Mayor Laputka.

22  
23 **Mayor Strickland moved to add a discussion and action item to discuss**  
24 **the performance evaluation and employment status of the Interim City**  
25 **Manager to the agenda. He further moved that item be placed first on**  
26 **the agenda prior to the first order of business and that the City**  
27 **Attorney's report be heard as the second item on the agenda, seconded**  
28 **by Vice Mayor Laputka. The motion passed by a 5/2 super majority**  
29 **voice vote of Council with Council Members Allebach and Blair voting**  
30 **"no".**

31  
32 In response to a question from Mayor Strickland, Mr. Reischmann advised that a motion is not required  
33 to have a presentation added to the agenda.

34  
35 Mayor Strickland opened the discussion by stating that he has lost confidence and can no longer  
36 support the Interim City Manager. He expressed concerns that Council has not been kept informed  
37 about the matter with the Police Department. He cited reading about the recent lawsuit in the  
38 newspaper as an example. Council Member Abraham and Vice Mayor Laputka agreed with the  
39 Mayor's comments. Council Member Abraham said that he too had several concerns. He recalled that  
40 some time ago, he had an issue with the way public record requests were handled. Vice Mayor Laputka  
41 said that it has been a while since the Council has met. He said the investigation with the Police  
42 Department has been ongoing for some time and needs to "come to a head." Council Member Allebach  
43 disagreed with Council Member Laputka's comments. He stated that it is premature and inappropriate  
44 to bring this matter to a "head" at this time as there are legal and standard operating procedures that  
45 must be followed.

46  
47 Council Member Pupello said that he is not surprised that this matter has reached this point as it has  
48 "dragged on" for an extended period of time and it is difficult to understand why. Council Member

1 Pupello stated that his confidence in the Manger's handling of this matter has been very questionable at  
2 this time. Council Member Crippen agreed with Council Member Pupello regarding the investigation.

3  
4 Council Member Blair stated that he has not lost confidence in Mr. Murray. He said Mr. Murray has  
5 tried to protect the citizens and the finances of the City. Council Member Blair said that he has lost  
6 confidence in his fellow Council Members who use the press as their own "soapbox." He cautioned the  
7 precedent being set will "cloud the search" for a potential city manager.

8  
9 As a point of order, Mr. Reischmann said the Charter provisions regarding removal of a city manager  
10 require four affirmative votes of the Council, noting the same stipulations are included in the city  
11 manager's contract. In addition, Sec. 2.2 of the Code provides that removal must be done by a majority  
12 vote of its full membership with all members present. It further stipulates that written charges and due  
13 process be provided. Mayor Strickland noted a conflict between the Charter and the Code. He pointed  
14 out the Code requires written notice and allows for due process, while the Charter only requires a  
15 super-majority vote of five Council Members. Mr. Reischmann advised that action could be taken only  
16 if the City Manager forfeits his right to due process.

17  
18 Mr. Murray declined to exercise his right to due process. He made the following statement, "I hope  
19 you would take the time to read the time line in the investigation when it comes out, and please read  
20 it...not what the press will report, not what the blogs will say, but read the report, please, thank you."

21  
22 Mayor Strickland summarized by stating that Mr. Murray has waived his right to due process and asked  
23 whether a Council Member wished to make a motion to terminate Mr. Murray.

24  
25 **Council Member Abraham moved for the termination of the Interim**  
26 **City Manager, effective immediately. Mayor Strickland passed the gavel**  
27 **to Vice Mayor Laputka. Mayor Strickland seconded the motion which**  
28 **passed by a 5/2 super majority roll call vote with Council Members Blair**  
29 **and Allebach voting "no."**

30  
31 Council Member Blair questioned whether it was appropriate to have someone fill in for Mr. Murray.  
32 Mr. Reischmann advised that Council cannot take any formal action on this matter tonight. A lengthy  
33 discussion ensued. Mayor Strickland noted Council would discuss scheduling a special meeting later  
34 on the agenda.

35  
36 **D. City Attorney's Report**

37  
38 *(Moved forward on the agenda)*

39  
40 Mr. Reischmann gave an update on the current issues with the Police Department. He said that he  
41 advised Council in December of the requirement for confidentiality under Chapter 112 F.S. He warned  
42 of severe penalties for violating Chapter 112. Mr. Reischmann said that he realizes it is unpopular  
43 however, he stands by his advice. He noted that many public records requests have been received. A  
44 suit has been filed by a local newspaper and the City will be represented by its insurance carrier. Mr.  
45 Reischmann acknowledged there was a delay in initiating the investigation. However, everything will  
46 be disclosed when the investigation has concluded. He reiterated that it is inappropriate and imprudent  
47 to discuss this matter at this time as all information will be disclosed at the conclusion of the complaint.  
48 In response to a question from Council Member Abraham, Mr. Reischmann said that the current  
49 version of Chapter 112 has been his guidance.

1 Council Member Crippen questioned when the investigation would be completed. Mr. Reischmann  
2 said that he could not provide a date. He described the investigation process noting that the Chief of  
3 Police will render a decision at the conclusion. He said the confidentiality limitations end when the  
4 report is submitted and the subject of the complaint is advised of the discipline, if any.  
5

6 Council Member Crippen said that Council received a letter from an attorney discussing F.S. Chapter  
7 112.533(4). Gary Glassman, Brown, Garganese, Weiss & D'Agresta, came forward and said he  
8 reviewed the letter and the case referenced in the letter was held unconstitutional by a federal court. He  
9 said no State or Supreme Court has made the same determination. Chapter 112.533(4) was the only  
10 section in that entire statute that was declared unconstitutional and the confidentiality provisions which  
11 Mr. Reischmann mentioned are contained in Section 112.53(2) which was not declared  
12 unconstitutional. Mr. Reischmann cautioned that if the attorney was wrong and Council talks about the  
13 complaint and investigation it could leave the City open for potential litigation.  
14

15 **1. ABSENCES:** None at this time  
16

17 **2. PRESENTATIONS/PROCLAMATIONS:** Make your Mark in 2035  
18 *(added to the agenda at Mayor Strickland's request)*  
19

20 Wendy Hickey, Planning & Zoning Analyst came forward and announced that the City has  
21 collaborated with the Volusia County MPO and will be hosting a "Make your Mark in 2035" meeting  
22 on Saturday, March 6<sup>th</sup>. She explained "Make your Mark in 2035" is an interactive planning activity  
23 that re-enforces the concept of long range planning with limited financial resources, and includes  
24 exercises in negotiations and building consensus. Mayor Strickland said he participated in "Make your  
25 Mark" activities. He discussed the purpose of the exercise and the effect it can have on citizens.  
26 Mayor Strickland said that it is important to get citizens involved in the process.  
27

28 **3. CITIZENS COMMENTS:**  
29

30 Kelly Jo Brubaker, Orange City Police Officer came forward and said that she is asking for help  
31 because Council is being misled by Chapter 112 F.S. Officer Brubaker stated that Council has been  
32 "lied to" about finding an agency to conduct the investigation. She said the reason the Teamsters are  
33 involved is because of the "relentless retaliation" that the officers have endured.  
34

35 Ron Saylor, 361 Dixson Street, came forward and presented the Mayor with two water filters from  
36 neighboring houses. He advised that during their lifespan, both filters gained 2 pounds. One filter,  
37 from a house that feeds off the new main on Dixson had 16,000 gallons of water go through it.  
38 However the other filter came from a house that feeds off of a pipe on Carpenter Avenue and it gained  
39 2 pounds after less than 3,000 gallons passed through it. Mr. Saylor said the quality of the water on  
40 Carpenter Avenue is unacceptable. He urged Council to fund this project in the upcoming budget.  
41

42 Henry Durica, 1310 E. Lansdowne Ave. came forward and noted that the traffic light on Threadgill  
43 Place is up and running. He asked how much it cost. Mayor Strickland responded \$74,000. Mr.  
44 Durica distributed copies of a newspaper article regarding trash bills for DeLand (a copy of which is  
45 attached and becomes a permanent part of these minutes). Mr. Durica said that Orange City residents  
46 pay \$141 more per year than DeLand residents for garbage services from the same company. He said  
47 that the residents of Orange City have been overcharged on the trash bill for three years and want the  
48 excessive fee reduced to those of neighboring cities.  
49

1 Alan James, 1045 E. Graves Ave. came forward and said that the business leaders group has been  
2 renamed "Orange City Partners for Progress". He said the group is interested in working with the City  
3 to address the upcoming commuter rail.  
4

5 Linda White, 1908 Salem Ct., Deltona came forward and said she is President of a newly formed  
6 corporation called 23<sup>rd</sup> Century Solutions, Corp. She said Mr. James is her partner. Ms. White said  
7 23<sup>rd</sup> Century Solutions is a for-profit corporation with the mission of serving as a catalyst for  
8 community-based economic revitalization projects. Ms. White asked Council to consider adopting a  
9 resolution supporting the location of a commuter rail station in Orange City. A commuter rail station  
10 would position the City to become a leader in this region, assist in redevelopment and stimulate the  
11 economy. Mayor Strickland suggested Council provide a letter of support as a resolution could not be  
12 adopted until the next Council meeting. Ms. White agreed noting that could open the dialogue with the  
13 State legislature.  
14

15 **Vice Mayor Laputka moved that Council provide a letter of support to 23<sup>rd</sup>**  
16 **Century Solutions, Corp. concerning the City's commitment to the**  
17 **furtherance of a resolution that would support having a commuter rail**  
18 **station located within the planning area of Orange City, seconded by**  
19 **Council Member Crippen, and passed by a 7/0 voice vote of the Council.**  
20

21 **4. CONSENT AGENDA:** None at this time  
22

23 **5. ORDINANCES – FIRST READING:** None at this time  
24

25 **6. PUBLIC HEARINGS:** None at this time  
26

27 **7. RESOLUTIONS:**  
28

- 29 **A. RESOLUTION NO. 590-10:** A resolution of the City Council of the City of  
30 Orange City, Florida, pursuant to Section 4.12 of the City Charter canvassing  
31 the votes and declaring the results of the referendum election held by mail  
32 ballot on January 19, 2010; repealing all resolutions in conflict herewith and  
33 providing for an effective date.  
34

35 Council Member Allebach read the title of Resolution No. 590-10 into the record.  
36

37 **Vice Mayor Laputka moved to approve Resolution No. 590-10,**  
38 **seconded by Council Member Crippen.**  
39

40 Mr. Reischmann advised that pursuant to the City Charter a resolution is required to canvass the votes  
41 and declare the results of a referendum election. He said approving Resolution No. 590-10 fulfills that  
42 requirement and is the final step in the Breezewood Village Condominiums annexation.  
43

44 **Motion passed by a 7/0 roll call vote of the Council.**  
45

- 46  
47 **B. RESOLUTION NO. 591-10:** A resolution of the City Council of the City of  
48 Orange City, Florida amending Council Rules & Procedures; repealing all

1 resolutions or parts of resolutions in conflict herewith and providing for an  
2 effective date.

3

4 Council Member Allebach read the title of Resolution No. 591-10 into the record.

5

6 **Council Member Crippen moved to approve Resolution No. 591-10,**  
7 **seconded by Vice Mayor Laputka.**

8

9 Vice Mayor Laputka noted this is a temporary change to the *Council Rules & Procedures* and provides  
10 an earlier starting time for the second Council meeting of the month. It is designed to provide residents  
11 who cannot make the later meeting with an opportunity to participate in Council meetings. Mr.  
12 Reischmann advised this change is temporary and after a four month trial period the matter must be  
13 reviewed to determine if Council wants to permanently change the meeting times.

14

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

16

17 **8. DISCUSSION AND ACTION:**

18

19 **A. MOU – Water Resource Management in West Volusia County**

20

21 Paul Johnson, Public Works Director came forward and advised that Council this is a Memorandum of  
22 Understanding (MOU) between the water utilities in West Volusia County. He said staff has made the  
23 changes Council recommended at the last Council meeting and is again seeking approval to proceed.

24

25 **Council Member Allebach moved that the City Council authorize the**  
26 **Mayor to sign the Memorandum of Understanding as presented, seconded**  
27 **by, Council Member Crippen and passed by a 7/0 roll call vote of the**  
28 **Council.**

29

30 **B. Select Top Five City Manager Candidates**

31

32 Colin Baenziger, Colin Baenziger & Associates came forward and distributed ballots to narrow the  
33 group of candidates for City Manager. He suggested that Council select five candidates noting the  
34 candidates with the most votes will be invited for interviews. Council Members cast their votes and  
35 passed the ballots back to Mr. Baenziger. The City Clerk tallied the vote. Mr. Baenziger read the  
36 ballot vote as follows:

37

- |    |                             |   |
|----|-----------------------------|---|
| 38 | 2 Votes for Shane Crawford  | (Council Members Allebach, Crippen)   |
| 39 | 7 Votes for Jamie Crouteau  | (Mayor Strickland, Vice Mayor Laputka, Council<br>Members Abraham, Allebach, Blair, Crippen, Pupello) |
| 40 |                             |   |
| 41 | 2 Votes for John Drago      | (Council Members Allebach, Blair)   |
| 42 | 3 Votes for David Greene    | (Council Members Blair, Crippen, Vice Mayor Laputka)  |
| 43 | 2 Votes for Cynthia Hall    | (Council Member Abraham, Vice Mayor Laputka)  |
| 44 | 2 Votes for Bill Looney     | (Council Member Blair, Vice Mayor Laputka)  |
| 45 | 1 Vote for Roy McCampbell   | (Council Member Pupello)  |
| 46 | 6 Votes for Ronald McLemore | (Council Members Abraham, Allebach, Crippen,<br>Pupello, Vice Mayor Laputka, Mayor Strickland)        |
| 47 |                             |   |
| 48 | 7 Votes for Anthony Otte    | (Council Members Abraham, Allebach, Blair, Crippen,<br>Pupello, Vice Mayor Laputka, Mayor Strickland) |
| 49 |                             |   |

1           1 Vote for James Pennington           (Mayor Strickland)  
2           3 Votes for Rex Taylor                 (Council Member Abraham, Pupello, Mayor Strickland)  
3

4 Mr. Reischmann noted that he and Mayor Strickland were delegated at a previous meeting to negotiate  
5 the contract with the new manager. He asked Council to provide him with any concerns they might  
6 have regarding the contract negotiations.  
7

8 Mr. Baenziger announced that there were three clear winners. He advised Council to choose a  
9 minimum of five candidates to interview. Council agreed to conduct a second round of voting to select  
10 additional candidates. Mr. Baenziger announced the results as follows:  
11

12           1 Votes for Shane Crawford           (Council Members Allebach)  
13           3 Votes for John Drago                 (Council Members Allebach, Blair, Pupello)  
14           2 Votes for David Greene               (Council Members Blair, Crippen)  
15           3 Votes for Cynthia Hall             (Council Members Abraham, Crippen, Vice Mayor Laputka)  
16           2 Votes for Bill Looney               (Council Member Blair, Mayor Strickland)  
17           3 Votes Rex Taylor                   (Council Members Abraham, Pupello, Mayor Strickland)  
18

19 Mr. Baenziger announced that the following six candidates were selected.  
20

21                                   Jamie Crouteau  
22                                   John Drago  
23                                   Cynthia Hall  
24                                   Ronald McLemore  
25                                   Anthony Otte  
26                                   Rex Taylor  
27

28                                   **Council Member Crippen moved that the six candidates announced by**  
29                                   **Mr. Baenziger be invited to interview for the city manager position,**  
30                                   **seconded by Vice Mayor Laputka and passed by a 7/0 voice vote of the**  
31                                   **Council.**  
32

### 33 9. NEW BUSINESS

34

35 Mr. Reischmann advised that a Special Meeting must be scheduled to discuss appointing an Acting  
36 City Manager. A lengthy discussion about the time and agenda items for the Special Meeting ensued.  
37

38                                   **It was the consensus of the Council to hold a Special Meeting at 4:00**  
39                                   **p.m. on Wednesday February 10, 2010 to discuss appointing an Acting**  
40                                   **City Manager and consider a Resolution supporting a commuter rail**  
41                                   **station within Orange City's planning area.**  
42

43 Vice Mayor Laputka asked that the Alternative Water fee currently being collected through the water  
44 bills be placed on the agenda for the next Regular Council meeting.  
45

### 46 10. REPORTS:

47

48           A. City Manager  
49

1 No report.

2

3 **B. Mayor/City Council**

4

5 Council Member Allebach said he is working on a meeting schedule with the MPO to have discussions  
6 about the "Make your Mark in 2035."

7

8 Mayor Strickland said he discussed the location of a commuter rail station in the City with County  
9 Council Members Andy Kelly and Jack Hayman.

10

11 **C. City Clerk**

12

13 The City Clerk provided Council with an update on the events being planned for the Welcome  
14 Reception for the Manager candidates. She said flyers were sent to goal setting workshop participants,  
15 officials, and local business people. To date, forty people have responded in the affirmative.

16

17 **D. City Attorney**

18 *(This item was moved)*

19

20

21 **11. APPROVAL OF MINUTES:**

January 07, 2010 Workshop Minutes

22

23 **Council Member Crippen moved to approve the minutes of the January 07,**  
24 **2010 Workshop meeting, seconded by Vice Mayor Laputka and passed by a**  
25 **unanimous 7/0 voice vote of the Council.**

26

27

January 12, 2010 Regular Meeting Minutes

28

29 **Council Member Allebach moved to approve the minutes of the January 12,**  
30 **2010 Regular meeting, seconded by Council Member Blair and passed by a**  
31 **unanimous 7/0 voice vote of the Council.**

32

33 **COUNCIL COMMENTS:**

34

35 Council Member Blair expressed his disappointment with the action taken by Council tonight. He  
36 stated, "I think there are other ways to go about accomplishing what was accomplished tonight."  
37 Council Member Blair discussed recent blogs about the naming of the high school. He said that he was  
38 embarrassed by the headline from one of the blogs. He said these types of things hurt the City's  
39 relationship with the school board.

40

41 Council Member Crippen noted that he, too, is not happy with the naming of the new high school but  
42 that he would support the School Board's choice of University High School Orange City. Council  
43 Member Crippen said that he looks forward to choosing a new city manager and the conclusion of the  
44 investigation of the Police Dept.

45

46 Council Member Pupello said that he also is looking forward to the conclusion of the investigation. He  
47 said Council has the opportunity to pick a new city manager and to develop a good working  
48 relationship with that person. He stated, "I feel like we can do a lot of great things and there is a lot of  
49 work to be done."

1 Council Member Allebach stated that he is looking forward to the conclusion of the investigation so the  
 2 healing process can begin. He said some of the wounds were exacerbated by an overzealous press and  
 3 “folks that were impatient.” Council Member Allebach said that he will support the name given to the  
 4 high school. However, the City was misled about the School Board’s process for naming a school. He  
 5 said he worked with a committee for the last eight months to select a name that includes Orange City in  
 6 its title and a name that was not recommended by the committee was chosen. He stated, “That bothers  
 7 me.” Council Member Allebach said that he would support the students and teachers, however, he  
 8 stated, “We may need to find some new people to lead the school board.”

9  
 10 Mayor Strickland thanked everyone for being present. He expressed his concerns that things might not  
 11 have gone well for people in the audience. He stated, “I know that there are some very strong  
 12 emotions. I think that people learned tonight about city government and that part of our job is to be as  
 13 open as we can be and when we can’t be to let you know as much as we can about what our constraints  
 14 are.”

15  
 16 **ADJOURNMENT**

17  
 18 There being no further business, Mayor Strickland adjourned the meeting at 8:55 p.m.

19  
 20  
 21 **RESPECTFULLY SUBMITTED:**

**APPROVED ON:**

22  
 23  
 24  
 25  
 26  
 27 Gloria Williams, CMC  
 28 Deputy City Clerk

February 23, 2010

29  
 30  
 31  
 32